

No. 17425

---

United States  
Court of Appeals  
for the Ninth Circuit

---

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,  
vs.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO,  
Respondent.

---

Transcript of Record

---

Petition for Enforcement of an Order of the  
National Labor Relations Board

FILED  
NOV - 6 1961

FRANK H. SCHMIDT, JR.



No. 17425

---

United States  
Court of Appeals  
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

vs.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO,  
Respondent.

Transcript of Record

Petition for Enforcement of an Order of the  
National Labor Relations Board



## INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Answer to Petition for Enforcement, Respondent's .....	161
Attorneys, Names and Addresses of.....	1
Certificate of N.L.R.B.....	157
Decision and Order.....	33
Exhibits, General Counsel's:	
No. 2—Agreement, 1959-1961 .....	45
5—Referral Procedure Complaint.....	87
6—Letter Dated April 5, 1960.....	144
7—Letter Dated April 7, 1960.....	148
8—Referral Procedure Complaint.....	149
Intermediate Report and Recommended Order	3
Petition for Enforcement of an Order of the N.L.R.B. ....	159
Transcript of Proceedings.....	42
Witnesses:	
Campbell, William J.	
—direct .....	102, 115, 134, 154
—cross .....	127

## Witnesses—(Cont'd.)

## Hamilton, Stanley

—direct ..... 127

—cross ..... 129

## Jewell, Robert D.

—direct ..... 139

—cross ..... 149

—redirect ..... 151, 152

## Shulz, Rudolph C.

—direct ..... 53, 130

—cross ..... 65

## Wood, Jack L.

—direct ..... 67

—cross ..... 89

—redirect ..... 101

NAMES AND ADDRESSES OF ATTORNEYS

MARCEL MALLET-PREVOST, ESQ.,

Asst. Gen. Counsel,  
National Labor Relations Board,  
Washington, D. C.;

ROY O. HOFFMAN,

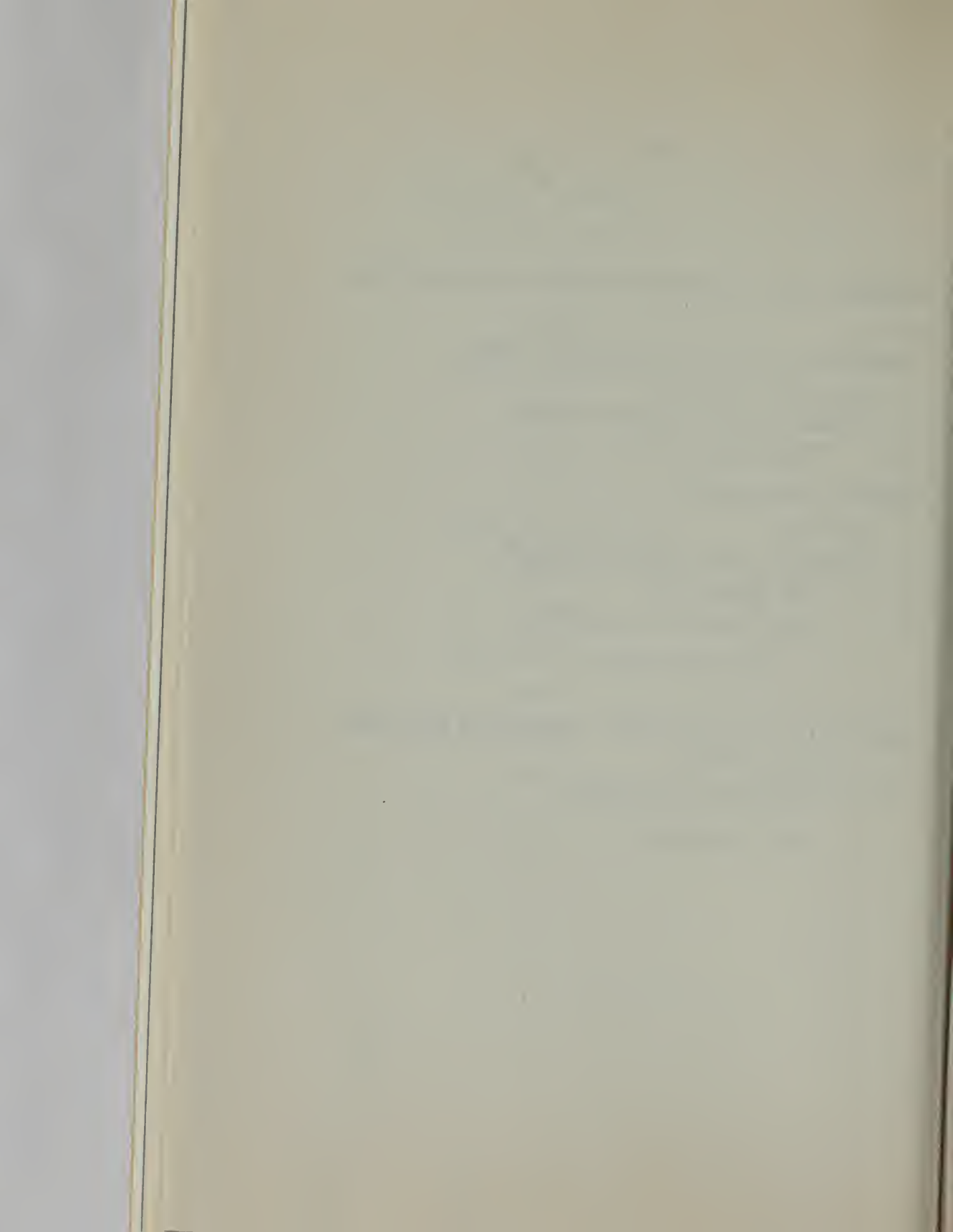
Director,  
National Labor Relations Board,  
830 Market St.,  
San Francisco, California,

For Petitioner.

BRUNDAGE, NEYHART, GRODIN & MILLER,

1035 Russ Bldg.,  
San Francisco, California,

For Respondent.





United States of America  
Before the National Labor Relations Board  
Division of Trial Examiners  
Branch Office, San Francisco, California

Case No. 20-CB-760

ELECTRICAL WORKERS, INTERNATIONAL  
BROTHERHOOD OF, LOCAL UNION 340,  
AFL-CIO,

and

JACK L. WOOD, An Individual

PHILLIP PAUL BOWE, ESQ.,  
For the General Counsel.

BRUNDAGE, NEYHART, GRODIN & MILLER  
By JOSEPH R. GRODIN, ESQ.,  
Of San Francisco, Calif.,  
For the Respondent.

Before: David F. Doyle, Trial Examiner.

INTERMEDIATE REPORT AND  
RECOMMENDED ORDER

Statement of the Case

This proceeding with all parties represented was tried before the undersigned Trial Examiner at San Francisco, California, on June 21 and July 6, 1960, on complaint of the General Counsel and answer of the above-named Respondent. The issues litigated

were whether or not the Respondent violated Section 8(b)(1)(A) and 8(b)(2) of the Act by certain conduct, which is more particularly described hereinafter. Upon the entire record and my observation of the witnesses I hereby make the following:

### Findings and Conclusions

#### I. The business of Walsh Construction Company

Upon a stipulation of counsel it is found that Walsh Construction Company, herein called the Company or Walsh, is an Iowa corporation with its main office at Davenport, Iowa. The Company is engaged in all types of heavy construction such as the building of bridges, large buildings, industrial plants, power houses and tunnels.

During the calendar year ending December 31, 1959, the Company, in the course of its business operations, performed services valued in excess of \$50,000 in states other than the State of Iowa. It is conceded that the Company is engaged in operations affecting commerce within the meaning of Section 2(6) and (7) of the Act, and I find that the assertion of jurisdiction herein is warranted.

#### II. The labor organization involved

It is admitted and I find that International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, herein called the Union, is a labor organization within the meaning of Section 2(5) of the Act.

III. The unfair labor practices

The issues

The complaint alleges that on or about January 20, 1960, and continuously thereafter, the Union by its designated representatives in the course of the operation of its hiring hall, refused to clear or dispatch Jack L. Wood to the Company for employment because of Wood's lack of membership in the Union and that by this conduct the Union attempted to cause and did cause the Company to discriminate against Wood in violation of Section 8(a)(3) of the Act; thereby engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) and 8(b)(2) of the Act.

The Union denies the commission of the alleged unfair labor practices and contends that its refusal to dispatch Wood, was based on its belief that Shulz, superintendent of the Company was attempting to bypass the referral procedure in order to employ Wood, and that the repeated requests of Shulz, for men with "special skills" was a subterfuge for this purpose.

Undisputed facts forming the  
background of the controversy

It is undisputed that the Union operates in a group of counties in Northern California, with hiring halls at Sacramento, Redding, Marysville, and Chico in that state. As the representative of its members the Union has a contract with the Sacramento Valley Chapter, National Electrical Contrac-

tors Assn., Inc., herein called NECA, and other individual electrical contractors in this group of Northern California counties. The Company is a party to this contract. It is undisputed that the Union is an "inside and outside wireman" local and as such is principally concerned with the supplying of men for the installation, repair and maintenance of wiring in connection with industrial, commercial and residential construction.

The contract between the Union and NECA, by which the Company is bound sets up a rather complicated system of dispatch at the Union's hiring halls. Article IX of the Contract entitled, Referral Procedure, states that the Union shall be the sole and exclusive source of referrals of applicants for employment; that the employer shall have the right to reject any applicant for employment; and that the Union shall select and refer applicants for employment without discrimination, by reason of membership or nonmembership in the Union. The Article then states that all such selections and referrals shall be in accordance with certain groupings of men, based on various qualifications. These may be summarized as follows:

Group 1. Applicants, who have proof of (1) 48 months experience on types of work covered by the agreement; (2) have passed an examination, and (3) are residents of a certain area; and (4) have been employed for at least 12 months under the collective bargaining agreement within the preceding 48 months.

Group 2. Same requirements as (1) and (2) above, and have worked under a collective bargaining agreement in the geographical area surrounding the "normal construction labor market" as defined in the agreement.

Group 3. Same requirements as (1) and (2) above; place of residence and location of prior work experience are not considered.

Group 4. Experience requirement reduced to 24 months; examination is eliminated, but residency same as in Group 1, and prior work in the area of 12 months.

Group 5. Applicants who can show only 12 months experience on the type of work covered by the agreement.

Article IX then continues, and the section relative to men with special skills is especially significant:

Section 4c. Applicants' names will be placed on the referral list in the order in which they register their availability for work. Persons in Group 1 shall be referred first, in that order, and the same procedure shall be followed successively for Groups 2, 3, 4 and 5, subject to the following qualification:

When the Employer states bona fide requirements for special skills and abilities in his requests for applicants, the Business Manager shall refer the first applicant on the referral list possessing such skills and abilities.

The Business Manager, when referring applicants

with special skills shall take into consideration the applicant's own estimate of his ability to perform the work requiring such special skills, the applicant's record of experience on such work and the Business Manager's knowledge, if any, of the estimate which contractors have made of the applicant's skills and abilities to perform such work.

Section 4d. Decisions of the Business Manager in referring applicants are appealable to the Appeals Committee as herein provided. Such appeals shall be made within forty-eight hours and a decision of the Appeals Committee shall be rendered within one week after receipt of the appeal by the Committee. Forms will be provided at the dispatch office for appeals.<sup>1</sup>

In connection with the contract between the Union and NECA, it is worthy of note that the General Counsel in this proceeding concedes that it meets the requirements of the Mountain Pacific decision.

Certain other facts are not disputed. It is admitted that Stanley Hamilton, a business agent of the Union, is the sole representative in charge of the Chico hiring hall and in his capacity as business agent acts as dispatcher of men from that hiring hall. It is also undisputed that William J. Campbell is the business manager of the Union and as the top executive of the organization is the officer in charge of the four hiring halls of the Union to which he gives over-all, if not immediate, supervision.

---

<sup>1</sup>This contract is G. C. Exhibit No. 2 in evidence.

Likewise, some of the facts concerning the Walsh Construction Company and its operations are not in dispute. Among these is the fact that Walsh Construction Company engages in all type of heavy construction work, but in the area with which we are here concerned, the principal occupation of the Company is the drilling and construction of tunnels in the mountainous region of California for use by hydro-electric power companies, railroads or governmental agencies. The Company maintains at Oroville, California, a large yard for the storage and repair of its tunneling equipment, much of which is composed of mine locomotives and other heavy equipment using heavy-duty DC batteries, similar to those in railroad locomotives. The Oroville yard is maintained by the Company as a place of repair of this equipment during and between jobs. It is not disputed that Rudolph C. Shulz is the electrical superintendent of the Company in charge of all electrical work on the West Coast and particularly of the Oroville yard at which Shulz maintains his office.

It is similarly undisputed that Jack L. Wood, the individual who is the charging party herein is an electrician, and a member of Local 800, IBEW. Prior to June, 1953, Wood lived at Laramie, Wyoming, and worked for a period of four years as a mine electrician for the Union Pacific Coal Company. During that period he was a member of Local 775, IBEW, which is a local that has jurisdiction over railroad electricians. He moved to California

in 1953 and began his work there with the Western Pacific Railroad Company at Oroville, again as an electrician. In that job he joined Local No. 800, IBEW, located in Sacramento. This local is also a "railroad" local having jurisdiction over railroad electrical employees. In May of 1957, Wood became employed by the Walsh Construction Company at its Oroville yard. His employment on this occasion appears to have been a matter of chance, as he went to the Oroville yards for another purpose and noticed that a large amount of the equipment consisted of mine locomotives with which he was very familiar. He happened to run into Shulz and in the course of the conversation that ensued Shulz said that he could use a man of Wood's skills and experience and suggested that Wood go to Sacramento and get a clearance from the Union so that Wood could go to work for Shulz. Wood went to the Union hiring hall in Sacramento, then operated under a previous contract, received his clearance and went to work for the Walsh Construction Company under the supervision of Shulz. This employment lasted approximately 19 months, until Wood was laid off in December, 1958.

Upon being laid off he went to the Union's hiring hall at Chico and registered in one of the union's dispatch books. At that time there was one book for members and a second book for travellers. The business agent told him that he should sign in the travellers book and he understood that members would be dispatched before travellers. Later that



month the Union dispatched Wood to a job with the firm of Wismer & Becker where he worked as a tunnel electrical foreman for approximately one year. During this time he paid his usual dues of \$7.40 per month to Local 800 IBEW and paid a "dobie" of \$5.50 per month to the Union. During this time Wood attempted to join the Union. He calculated that he had completed his two years' experience so he presented an application for membership and his traveller's card to the Executive Board of the Union in the summer of 1959. However, about three months later he was notified that his card would not be accepted at that time. Wood continued in the Becker & Wesmer job until December, 1959, when he quit for reasons hereafter related.

The controversy; the job; the requests of  
the Company and the men dispatched

Rudolph C. Shulz testified credibly that the only electrical work performed by electricians at the Oroville yard is the repair of mine locomotives, battery switch gears, large DC batteries and transformers, all of which are used in tunnel-drilling operations. At the yard the Company has about \$150,000 worth of this special equipment, which the men keep in repair. To do this job he needed men possessed of particular skills and abilities as some of the larger batteries were ten feet long, and about five feet wide with a weight of about five tons, and were valued at \$9,000 each. Also, from time to time the mine locomotives were stripped down to the iron

and rebuilt. This was work that could not be done except by electricians with special skills and experience in that field.

Shulz testified that early in January, 1960, there was only one man employed at the yard, his son, Robert Shulz, but because the Company had received a new tunnel contract he decided to increase the work force. On or about January 5, 1960, Shulz phoned Stanley Hamilton, business agent and dispatcher for the Union at its hiring hall at Chico, California. On this occasion Shulz told Hamilton that Ward, Shulz's son-in-law, had returned from a job that he had been on with the Company in Nevada, and that he would like to have Hamilton clear Ward to work in the Oroville yard. Hamilton said that Ward would have to come to the Union hall and get on the book, that he couldn't clear him without signing the book. Also at this time Shulz told Hamilton he was in need of a man who could repair batteries, repair DC locomotives and charging sets and do some setting and welding and some lead burning. Hamilton said that he would try to find someone for Shulz who had those special skills.

It should be noted that Ward actually registered in the Union hall on January 22, 1960.

Shulz further testified that on or about February 5, 1960, the Union sent to Shulz a man by the name of Olds, as an electrician possessing the special skills which Shulz needed. Shulz interviewed Olds and by the latter's own admission he wasn't qualified to

fill the job, so Shulz sent Olds back to the Union hall. It should be noted that counsel stipulated that Olds, a union member was registered for the first time on February 5, 1960, and dispatched to Shulz on the same day. Also, on or about this date of February 5, 1960, Shulz had a phone conversation with Hamilton in which Shulz pointed out that Hamilton had a man at the hall, Wood, who had previously worked at the Oroville yard, and who possessed the special skills that Shulz needed.

On February 12, 1960, Ward was referred by the Union to Shulz and on that date began his employment in the Oroville electrical shop.

Approximately two weeks after this date, or about February 26, Shulz again called the Union hall and said that he needed another man possessing the same special skills.

It was stipulated by Counsel that W. Wheeler registered in the Group I book on March 11, 1960.

On March 18, Wheeler arrived at Shulz's office at Oroville yard with a referral slip from the Union. Accompanying Wheeler on this occasion were both Hamilton and Wood. Hamilton brought Wheeler in and introduced him to Shulz, and Wheeler gave Shulz his dispatch card to go to work. Shulz knew Wheeler as having been employed by the Company in the yard some year or two previously, and recollected that he had the necessary skills to perform the job so he was employed immediately. At this time Wood asked Shulz in the presence of Hamil-

ton, if Shulz did not need another electrician. Shulz replied that at that time he did not.

About two weeks later, Shulz again called Hamilton for another man and mentioned that he needed the same type of man with the same special skills as that was the only type of work that he had to do. Hamilton said that he would try to find some one with those special skills. Shulz did not remember whether Wood's name was mentioned in this phone conversation.

It was stipulated by Counsel that Charles Wing registered in Group I on March 18, 1960, and was dispatched to the Walsh job on April 22, 1960. On that date, according to Shulz, Wing was referred to Shulz by the Union. Shulz interviewed Wing and came to the conclusion that he did not possess the skills which Shulz sought. However, in order to give him a chance to qualify Shulz put him to work checking some batteries. After Wing had worked about four hours it became apparent to Shulz that he didn't know what he was doing, so he made out a discharge slip for Wing and sent him to the office for his pay.

On the day after Wing was rejected, Shulz called Hamilton again and told him he still needed an electrician to fill the job with special skills and Hamilton again said he would find some one. About a week later Hamilton and Campbell, the business manager of the Union, came to the shop. They said they wanted to discuss with Shulz his request for these

men with special skills. They had a short discussion and then Campbell said he would find Shulz some one with the special skills. A few days later, on May 3, 1960, a Mr. McAdams appeared on the job with a referral slip as a man possessing the special skills. Shulz asked him a few simple questions about what takes place in a battery when it is charged and discharged and McAdams could not answer. Shulz also gave him a simple wiring diagram of a locomotive and asked him to tell him the sequence of operation. The man could not answer this question either, so Shulz felt that he wasn't qualified to do the work and sent him back to the Union hall. That same afternoon Hamilton called Shulz again and asked him if he was still in need of a man to do the work with these special skills. Shulz replied in the affirmative. However, Shulz had not received any men from the Union hall since that date

Counsel stipulated that McAdams registered in Group I on May 2, 1960, and was referred to the job and rejected by Shulz on May 3, 1960.

It is undisputed that after May 3, 1960, the Union referred no more men to Shulz.

The registration of Wood,  
the dispatch of other men

Jack L. Wood, the charging party, testified credibly that in late 1959 his daughter became ill so he wanted to find work in the Oroville area, where he owns his own home so he quit the job he had with

the firm of Wismer & Becker and went to the Union's hiring hall at Chico and registered for work on December 23, 1959. It was stipulated by counsel that on this date Wood was registered in Group III. On this occasion Wood talked to Hamilton who was in the Union office at his desk. Wood asked to sign the out-of-work book and Hamilton handed him a book. Wood said, "I have to be in Group I." Hamilton said that he properly belonged in Group III. Hamilton then explained that Wood would have to pass an examination to be in Group I. Hamilton then asked Wood what Union he belonged to and Wood replied that he belonged to Local 800, I.B.E.W. Wood at that point told Hamilton that he had just come from the Union Valley Job (the Wismer & Becker job) and had broken in Leighton, the man dispatched by the Union to replace him. Hamilton said that Leighton didn't need breaking in, that he was a tunnel man. On this occasion Wood sat around the hiring hall for approximately one-half hour, and at one point mentioned to Hamilton that he had worked for the Walsh Construction Company at the Oroville yard. Wood testified that he had forgotten any reply made by Hamilton to this information.

The Chico hiring hall is open one hour each day in the morning on Mondays and Wednesdays and, one hour in the morning and one hour in the afternoon on Fridays. Between December 23, 1959, when he first registered and February 5, 1960, Wood returned to the hiring hall at Chico on an average of

twice a week, each time asking Hamilton if there were any job vacancies. After a couple of weeks somebody told Wood that he was supposed to notify Hamilton in writing that he was available for work. Wood asked Hamilton if that was required, Hamilton said he knew that Wood had been in the hall, and that Wood could send in a post card notification if he wanted to, but Hamilton did not offer any book to Wood for his signature. At that time Wood was unfamiliar with the terms of the contract and did not know that there was a place in the book which he was required to sign to obtain dispatch. Also during this period the Union posted a notice of wireman's examination by which the men moved from one group to a higher group. Wood told Hamilton that he would take the examination if it would put him in Group I. Wood did not remember what Hamilton replied. At this time Wood telephoned to Krivanek, chairman of the NECA, and asked him if he knew when the examination would be held. He was told that the examination would take place on January 16. According to Wood he talked to Hamilton both before and after that date on which he took the examination and on one occasion asked Hamilton when the results of the examination would be posted. Hamilton said the results of the examination would be announced at the next Union meeting. Also during this period Wood had a further conversation with Hamilton in which he told Hamilton that he had worked for the Walsh Construction Company and had done the type of work that Walsh had at the yard. Also around this

time Wood talked with Hamilton about what Group he should be in and in consequence of that conversation he obtained a statement from Local 800 showing that he had passed an experience rating test but when Wood presented this test to Hamilton the latter would not accept it.

On February 5, 1960, Wood was in the dispatch hall to see about work when Hamilton gave him the Group IV book to sign. Wood asked why he was being given the Group IV book. Hamilton replied that Wood was not entitled to be in Group III. Wood signed the Group IV book. Also at an early date in February, Wood heard that Walsh Construction Company had asked for men with certain special skills which were needed in the repair of locomotives and batteries at the Oroville yard. When Wood heard of this, thereafter he noted on his dispatch slip that he had the skills of lead burner, welder and DC battery repairman, etc.

Wood testified that on February 12, 1960, he went to the Union hall with Ward and saw the dispatch slip given to Ward. It stated that Ward had special skills of lead burning and DC battery repair. Wood asked Ward, why he was cleared before Wood and Ward said that Hamilton had said that Wood had not "verified" by signing the out-of-work book. After that Wood "verified" by writing the date and his initials in the book.

Thereafter between February 12, and March 18, it was openly discussed at the Union hall that Shulz



of the Walsh Construction Company was calling for a man with special skills of lead burning, welder, DC battery repairman, etc.

On March 18, 1960, Wood went to the Union hall and said to Hamilton, "I think there is a job open at Walsh's for a man with special skills. How about me?" Hamilton replied, "I don't know anything about it."

A few moments later Wood met another electrician by the name of Wheeler in front of the Union hall. He told Wheeler about the job and what Hamilton had said. Wheeler then said that he would go into the hall and ask Hamilton about the job. A few minutes later Wheeler came out of the Union hall accompanied by Hamilton. Wheeler waved a clearance slip at Wood. Hamilton and Wheeler got into a car and proceeded toward Oroville, so Wood followed in his car and found that Hamilton and Wheeler went to Walsh's yard. Wood went to the place in the yard where Wheeler, Hamilton and Shulz were talking and Wood said to Shulz, "Didn't you want two men?" Shulz said, "No." Then Wheeler gave his dispatch card to Shulz and Shulz asked him about his qualifications and put Wheeler to work.

After that occurrence on every occasion that he went to the Union hall Wood would ask Hamilton about the Walsh job. Also after February 5, 1960, Wood signed the out-of-work book every seven days. On most occasions when Wood asked Hamilton

about employment at Walsh Construction Company Hamilton replied that he didn't know anything about Walsh needing a man.

Wood was never dispatched to the Walsh job.

William J. Campbell, business manager of the Union, testified in its defense. Campbell said that he believed that Hamilton called him and informed him that Shulz was ordering a man and had asked for Ward. He agreed that Ward had the special skills because he knew that Ward had worked for the Walsh Construction Company for quite a number of years. He told Hamilton that if Ward was the only man on the referral list and had the qualifications that he could send Ward to the job. After that Hamilton called him again and said that Shulz wanted another man with the same qualifications. He told Hamilton that he could not believe that Shulz needed more than one man with the special skills. Campbell testified that in his opinion he did not believe that Shulz's request for a man with special skills was a bona fide request and that he instructed Hamilton not to dispatch Wood to the Walsh Construction Company job. He said that he was also suspicious of Shulz, because Shulz was employing his son in the yard and that the son did not have the qualifications of an electrician. After he learned that Shulz had rejected several men who were sent to the job he became convinced that Shulz's request for a man with special skills was a subterfuge to evade the referral procedure.

In view of Campbell's testimony, the examination of Stanley Hamilton, the business agent of the Union, who actually did the dispatching herein, is especially illuminating. He was examined by the General Counsel as an adverse witness under Rule 43-B. When the examination of Hamilton reached the dispatch of specific men, Hamilton found himself in considerable difficulty. He stated that the first man he dispatched to the job was Arnold Olds, a member of the Union, who was dispatched on February 5, 1960. He admitted that Olds registered on the same date and was assigned to Group I. Hamilton said he referred Olds to the Walsh Construction Company because of a prior conversation with Shulz. Upon further questioning, Hamilton said that in this conversation Shulz had said that he wanted a man with special skills for DC-motor repair, battery repair, and lead burning. Hamilton then stated that he didn't refer a man to the job for the next 15 days until Olds registered, because he didn't have a man with those qualifications. When he was asked why he hadn't dispatched Wood, who had those qualifications, he replied that he didn't know Wood's qualifications at that time. The General Counsel pointed out to him that after January 22, Ward was registered with the Union. To this Hamilton replied that he did not know that Ward had those special skills at that time. At this point he was asked why he hadn't dispatched a man until February 12, and he again replied that he had no man with the necessary qualifications. The wit-

ness then testified that he must have learned that Ward had the skills sometime prior to February 12, 1960, when he dispatched Ward to the job.

Hamilton then confirmed Shulz's testimony that about two weeks after the dispatch of Ward, Shulz called again and asked that another man with special skills be dispatched to the job. The witness then agreed with the questioner that he did not dispatch a man to the job until March 18, 1960, when he dispatched Wheeler. When asked why he didn't send a man out during that period he replied that he had no man with the required qualifications. When he was reminded that he had Jack Wood, the Charging Party, he replied that Jack Wood at that time was assigned to Group 4. This answer I cannot accept, for at this time when Wood was the only special skills man on the entire list, the group in which he was listed, was irrelevant. It was then pointed out to Hamilton that he waited three weeks. He answered that it appeared to him that Shulz was using this special skills routine to bypass the referral system.<sup>2</sup> The witness concluded his examination by admitting that no one has been sent to Shulz since May 3, 1960, although Wood was still available on the Union out-of-work list. The witness also admitted that all five men dispatched to the job with Shulz, were men who were not at the top of the list, but were dispatched as special skills men.

---

<sup>2</sup>See testimony of Hamilton, transcript pages 144 et seq.

### The appeals of Wood

On two occasions Wood availed himself of the appeal procedures set forth in the contract to seek a review of Hamilton's treatment of him. On the first occasion he appealed Hamilton's decision to put him in Group 4. The three-man Appeals Committee found that Wood was properly placed in Group 4.

On March 18, 1960, Wood again appealed on the dispatch of Wheeler to the Walsh job, instead of himself. The minutes of this meeting of the Appeals Committee are quite enlightening. They establish that Hamilton knew of Wood's special qualifications, and that Shulz wanted Wood dispatched to the job. However, the decision of the committee stated that at a meeting at Yuba City, "all dispatch books of Chico were thoroughly examined and B. A. Hamilton questioned about the same," and that the committee "feels the Complainant has been referred from Group 4 without discrimination."

It is worthy of note that Wood was not invited to attend or give evidence as to his side of the controversy. Upon the facts disclosed in this record, I find that the Appeals Committee in the cases of Wood at least, was a rubber stamp for the conduct of the Union's business agent and afforded Wood no opportunity to be heard, and offered him no genuine review of the facts of his appeal. On that basis, I reject, the Union's argument that the decisions of the Appeals Committee have any standing before the Board.

## Concluding Findings

It is abundantly clear from the testimony of Shulz, whom I deem a reliable witness, that the Walsh Construction Company at its Oroville yard performs work on the repair and maintenance of mine locomotives, heavy-duty batteries and other electrical tunnelling equipment. The nature of this electrical work is distinctly different from that performed by "inside and outside wiremen," who install and repair electrical wiring in industrial, commercial and residential structures. Apparently the International Union recognizes this difference in functions and skills, for it has "railroad" locals, and "wireman's" locals, and experience in one field is not accepted as qualifying experience in the other. Furthermore, the contract between the parties recognizes a need for some flexibility in obtaining men with special skills, and for that reason the mechanics by which employers can obtain men with special skills is spelled out in the contract. Upon all the evidence on this point, I find that the company needed men with the special skills enumerated and that its continuing request for such men was bona fide in all respects.

It is equally clear, from his long history of employment, and from the fact that he had been employed in the Oroville yard for over a year on a previous occasion, that Wood possessed the special skills requested by Shulz.

It is also clear, especially from the testimony of Hamilton that except for Ward, Wheeler and

Wood, all former employees of Walsh, that the Union did not have on its out of work lists in any group, men with the required skills. Hamilton admitted this, in explaining the long delays which occurred between the dispatch of the various men. Why then was Wood refused the dispatch to which he was entitled?

On this point I cannot accept the testimony of either Campbell or Hamilton. They claimed that they felt aggrieved at, and were suspicious of Shulz, because of three factors. One: Shulz had his son employed at the yard, and they suspected he was doing electrical work, but the record is barren of any action that either Hamilton or Campbell took against Shulz in this regard. Two: they suspected that Shulz's request for men with special skills was a subterfuge to avoid the referral procedure. Yet, after Hamilton and Campbell discussed the situation with Shulz, Campbell agreed to try to find a man with the special skills for Shulz, and Hamilton dispatched McAdams to the job thereafter. Third: Hamilton and Campbell felt that Shulz was using pressure to get Wood. This statement is inconsistent with the conduct of the Union, in the dispatch of Ward, Shulz's son-in-law, who was requested by name by Shulz, and dispatched to the job by Hamilton. In the light of all the evidence, I must reject the testimony of Campbell and Hamilton on this point, as being entirely unpersuasive. I deem it a rather flimsy screen behind which the Union hopes to hide its patent discrimination against Wood.

Upon a review of the evidence, I find that prior to the dispatch of Ward, on February 12, 1960, Hamilton was fully aware (1) that Shulz wanted a man with special skills, and (2) that Wood, who had been registered since December 23, 1959, possessed those special skills. At that point, Wood was entitled to be dispatched to the job, and when he was not so dispatched, the discrimination against him became effective. The purpose of this discrimination is fairly obvious. Hamilton desired to prefer members of his own local, or other sister "wire-mans" locals, over Wood whom he considered a newcomer, from a railroad local. Hamilton very readily dispatched Olds, Ward, Wheeler, Wing and McAdam, over a five-month period. These were wiremen from Hamilton's own local, or a sister wiremen's local, but he would not dispatch Wood, the newcomer from a railroad local.

#### IV. The effect of the unfair labor practices upon commerce.

The activities of the Union set forth in Section III above, occurring in connection with the operations of the Company described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. The remedy

Having found that the Union has engaged in unfair labor practices within the meaning of Section



8(b)(1)(A) and Section 8(b)(2) of the amended Act, the undersigned will recommend that it cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the amended Act.

Having found that in violating Sections 8(b)(1)(A) and 8(b)(2) of the Act, the Union has deprived Jack L. Wood of employment by Walsh Construction Company, it will be recommended that (1) the Union notify Walsh Construction Company, in writing, and furnish a copy of said notification to Wood, that it has withdrawn its objections to the employment of Wood at the Company's shop at Oroville, California, and request the Company to offer Wood employment at that plant; and (2) that the Union make Wood whole for any loss of pay he may have suffered by reason of the Union preventing his employment by the Company from February 12, 1960, to the date of the Union's notification to the Company, as set forth above, according to the following formula: Wood's loss of pay shall be computed on the basis of each separate calendar quarter, or portion thereof, from February 12, 1960, to the date on which the Union serves its notice upon the Company of its withdrawal of objection to Wood's employment; the quarterly periods, hereinafter called quarters, shall begin with the first day of January, April, July, and October. Loss of pay shall be determined by deducting from a sum equal to that which Wood would normally have earned for each such quarter or portion thereof, his net

earnings,<sup>3</sup> if any, in any other employment during the period. Earnings of one particular quarter shall have no effect upon the Union's liability for any other quarter.

Upon the above findings of fact and upon the entire record in the case, the undersigned makes the following:

#### Conclusions of Law

1. Walsh Construction Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Respondent, International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, the Union has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) of the amended Act.

4. By causing Walsh Construction Company, an employer, to discriminate against an employee in violation of Section 8(a)(3) of the amended Act, the Union has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(2) of the amended Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the

---

<sup>3</sup>See *Crossett Lumber Company*, 8 NLRB 440; *Republic Steel Corporation v. N. L. R. B.*, 311 U. S. 7; *F. W. Woolworth Company*, 90 NLRB 289.

meaning of Section 2(6) and (7) of the amended Act.

### Recommendations

Upon the basis of the foregoing findings of fact and conclusions of law, I recommend that International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, its officers and agents, shall:

1. Cease and desist from:

(a) Restraining or coercing employees or prospective employees of Walsh Construction Company, its successors or assigns, in the exercise of their right to engage in, or to refrain from engaging in, any and all of the concerted activities listed in Section 7 of the Act, except to the extent that such right may be affected by the proviso in Section 8(b)(1)(A) of the Act, or by any agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act;

(b) In any other manner causing or attempting to cause Walsh Construction Company, its successors or assigns, to discriminate against employees or prospective employees in violation of Section 8(a)(3) of the Act.

2. Take the following affirmative action which I find will effectuate the policies of the Act:

(a) Notify Walsh Construction Company, in writing, and furnish a copy to Jack L. Wood that the Union has no objection to the employment of Wood as electrician at the Oroville, California, shop of the Company without regard to his membership

or nonmembership in the Union, or any other labor organization, and without prejudice to his seniority, or other rights and privileges; said notification shall contain a request that Walsh Construction Company offer Wood employment as an electrician, as aforesaid;

(b) Make whole Jack L. Wood for any loss of pay he may have suffered as a result of the discrimination against him in the manner set forth in the section of this Intermediate Report and Recommended Order entitled "The remedy";

(c) Post in conspicuous places at the business office of the Union, and at the Oroville yard of the Company, in all places where notices of communications to its members or employees of the Company are customarily posted, copies of the notice attached hereto, marked Appendix A. Copies of the said notice, to be furnished by the Regional Director for the 20th Region, shall, after being duly signed by the Union's representative, be posted by the Union immediately upon receipt thereof and maintained for a period of sixty (60) consecutive days thereafter. Reasonable steps shall be taken by the Union to insure that such notices are not altered, defaced, or covered by any other material;

(d) Mail to the Regional Director for the Twentieth Region signed copies of the notice attached hereto as Appendix A for posting, as described in paragraph (c) above. Copies of said notices, to be furnished by the Regional Director for the Twentieth Region, shall, after being signed as provided

in paragraph 2(c) be forthwith returned to the Regional Director for said posting;

(e) Notify the Regional Director for the Twentieth Region, in writing, within twenty (20) days from the receipt of this Intermediate Report and Recommended Order what steps the Union has taken to comply herewith.

It is further recommended that unless on or before twenty (20) days from the date of receipt of this Intermediate Report and Recommended Order the Union notifies the said Regional Director, in writing, that it will comply with the above recommendations, the National Labor Relations Board issue an order requiring it to take such action.

Dated: 10/25/60.

/s/ DAVID F. DOYLE,  
Trial Examiner.

### Appendix A

Notice to All Members of International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, and to All Employees and Prospective Employees of Walsh Construction Company

Pursuant to

The Recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our members and the employees of Walsh Construction Company that:

We Will Not cause or attempt to cause any employer to discriminate against employees in regard to their hire or tenure of employment or any term or condition of employment in violation of Section 8(a)(3) of the Act, as amended.

We Will Not, in any manner, restrain or coerce employees of any employer in the exercise of rights guaranteed them in Section 7 of the Act, except to the extent that such right may be affected by a lawful agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act, as amended.

We Will notify Walsh Construction Company and Jack L. Wood that we withdraw our objections to the employment of Wood by that Company, and request said Company to offer employment to Wood as an electrician at its Oroville yard.

We Will make Jack L. Wood whole for any loss of pay suffered because of our discrimination against him.

Dated.....

INTERNATIONAL      BROTHERHOOD      OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO

(Labor Organization)

By.....,  
(Representative) (Title).

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

United States of America  
Before the National Labor Relations Board

Case No. 20-CB-760

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO (WALSH CONSTRUCTION  
COMPANY)

and

JACK L. WOOD, an Individual

#### DECISION AND ORDER

On October 25, 1960, Trial Examiner David F. Doyle issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Respondent filed exceptions to the Intermediate Report, together with a supporting brief.

The Board has reviewed the rulings of the Trial Examiner made at the hearing, and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record, and hereby adopts the findings, conclusions and recommendations of the Trial Examiner, with the following additions and modifications:

1. We agree with the Trial Examiner's conclusion that Local 340, the Respondent, refused to refer to Jack L. Wood, the Charging Party, for employment at Walsh Construction Company for reasons related to his lack of membership in Local 340. Local 340 is an "inside and outside wireman's" local whose members are primarily skilled in the installation and maintenance of wiring used in construction. It has a contract with Sacramento Valley Chapter, National Electrical Contractors Association, to which Walsh was a party. Local 340 was the exclusive hiring agent under the agreement.<sup>1</sup> Although Walsh uses men in its tunnel construction jobs who are skilled in wiring installations, it also requires electricians, at its Oroville Yard, who are experienced in the repair of mine locomotives, battery switch gears, large DC batteries and transformers. Wood was a member of Local 800, IBEW, whose members were electricians primarily skilled in the maintenance of locomotives and other heavy equipment.

Since Wood did not have the requisite wireman's experience, he had been rated by Local 340 in one of the low seniority groups provided for by the contract. The contract, however, also contained a "special skills" provision, whereby Local 340 agreed to refer men outside of the regular seniority system to

---

<sup>1</sup>The General Counsel concedes that the hiring arrangement set out in the agreement conforms to the standards of Mountain Pacific Chapter of the Associated General Contractors, 119 NLRB 1733.



an employer who requested an electrician with skills other than those normally possessed by Local 340 members.

In affirming the Trial Examiner's conclusion that the refusal of Local 340 to refer Wood was based on reasons relating to union membership, we rely on the grounds cited by the Trial Examiner as well as on certain additional background evidence which was not referred to in the Intermediate Report.<sup>2</sup> Thus, in December 1958, Wood was out of work and contacted Respondent's hiring hall in Sacramento. Campbell, Respondent's business manager, asked Wood what local he was from. When Wood told him it was Local 800, Campbell replied "That is bad" and stated that Wood should not work in a construction local such as Local 340.

In November, 1959, Wood was working on a tunnel job for another contractor within Respondent's jurisdictional area. During a dispute between Wood and one of Respondent's business representatives, Galvin, the latter told Wood "why don't you go back to where you came from?" Galvin also said that it was his job to protect the members of Local 340. During this job, as noted in the Intermediate

---

<sup>2</sup>Some of these incidents, upon which we rely as background evidence, occurred prior to the six-month period preceding the filing and service of the charge herein. It is, however, considered insofar as it sheds light on Respondent's later conduct, within the Section 10(b) period, in refusing to refer Wood. Murfreesboro Pure Milk Co., 127 NLRB No. 140.

Report, Wood's traveling card from Local 800 was rejected by Respondent without explanation.

In January, 1960, Wood, on his own initiative, took the examination set by Local 340 in order to qualify himself for a higher grouping under the seniority classification system set forth in Respondent's hiring agreement. He was never notified of the results of this test as he was not deemed eligible to take the examination, according to Campbell. Work under a railroad local's jurisdiction was not considered to be relevant experience for classification under Local 340's contract.

At the hearing, in explaining Respondent's referral practices, Hamilton, one of Respondent's business agents, testified that "ours is strictly what we call an inside local, inside and linemen local, and if we refer someone that isn't a member of our branch of the labor market, they are out of classification." At another point in the hearing, business manager Campbell conceded that "although we have an agreement with this company (Walsh), it is the type of a company that we seldom have agreements with. It is a general contractors, and our contracts under the construction type of work is almost exclusively with electrical contractors." Campbell pointed out that Respondent did not have many members who had the special lead burning and mine locomotive skills requested by Walsh.

Although Respondent claims it did not dispatch Wood because it did not believe Walsh actually needed men with special skills, we find that a pre-

ponderance of the evidence, as outlined in the Intermediate Report and supplemented above, supports the General Counsel's position that Wood was in fact refused referral by Respondent because of his membership in a "railroad" rather than a "wireman's" local, and not for the reasons advanced by Respondent. Accordingly, we find a violation of Sections 8(b)(1)(A) and 8(b)(2), as alleged in the complaint.

2. Like the Trial Examiner, we cannot, in the circumstances of this case, honor the decision of the appeals committee, established under the parties' agreement, which found no merit in Wood's complaint that Local 340 had improperly refused to refer him to the Walsh job. At the appeals hearing held April 5, 1960, to which Wood was not invited, members of the appeals committee were primarily concerned with whether Wood had shown proof of his qualifications for the Walsh job. It is not clear from the minutes of the meeting<sup>3</sup> whether the committee was considering Wood's qualifications under the group classification system, or his "special skills" qualifications. If the former, as appears probable from other evidence in the record, that issue is not involved in this case. If the latter, Respondent concedes that Wood possessed the "special skills" requested by Walsh, and it is clear that Wood's special skills were known to Respondent no later than February 12, 1960, the first date of dis-

---

<sup>3</sup>Minutes of the meeting, in the form of a partial transcript, are in evidence as an exhibit.

crimination found by the Trial Examiner.<sup>4</sup> As it is evident that Wood's claim for referral as a "special skills" man was not fully considered by the appeals committee, and as Wood's present contention that he was denied referral because of his membership in a "railroad" local was not raised there, we cannot give weight to its determination.<sup>5</sup>

### Order

Upon the entire record in this case, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, its officers and agents, shall:

1. Cease and desist from:

(a) Causing or attempting to cause Walsh Construction Company to discriminate against Jack L. Wood, or any other employee or applicant for em-

---

<sup>4</sup>Although the evidence clearly establishes such knowledge by Respondent, the minutes disclose that Hamilton told the committee he did not know of Wood's qualifications. We therefore do not adopt the Trial Examiner's statement indicating that the minutes "establish that Hamilton knew of Wood's special qualifications."

---

<sup>5</sup>See *Monsanto Chemical Co.*, 130 NLRB No. 119. Although we accord no binding effect to the decision of the appeals committee, we find the evidence insufficient to establish that the committee was a "rubber stamp" for the business agent's conduct, and do not adopt this statement of the Trial Examiner.

ployment, in violation of Section 8(a)(3) of the Act, as amended;

(b) In any like or related manner restraining or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8(a)(3) of the Act, as amended.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Notify Walsh Construction Company, in writing, and furnish a copy to Jack L. Wood, that Respondent has no objection to Wood's employment at the Company's Oroville, California, yard and shop;

(b) Make whole Jack L. Wood for any loss of pay he may have suffered as a result of the discrimination against him, in the manner set forth in the section of the Intermediate Report entitled "The remedy";

(c) Post at Respondent's offices and meeting halls copies of the notice attached hereto and marked "Appendix."<sup>6</sup> Copies of such notice, to be

---

<sup>6</sup>In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order," the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

furnished by the Regional Director for the Twentieth Region, shall, after being duly signed by an authorized representative of Respondent, be posted immediately upon receipt thereof, and be maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to its members are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(d) Promptly mail to said Regional Director signed copies of the Appendix for posting, the Company willing, at the Company's Oroville yard and shop;

(d) Notify the Regional Director for the Twentieth Region, in writing, within ten (10) days from the date of this Order, what steps the Respondent has taken to comply herewith.

Dated, Washington, D. C., April 26, 1961.

FRANK W. McCULLOCH,  
Chairman;

BOYD LEEDOM,  
Member;

JOHN H. FANNING,  
Member, National Labor Re-  
lations Board.

Appendix

Notice to All Members of International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, and to All Employees and Prospective Employees of Walsh Construction Company

Pursuant to a Decisions  
and Order

of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

We Will Not cause or attempt to cause Walsh Construction Company to discriminate against Jack L. Wood, or any other employee or applicant for employment, in violation of Section 8(a)(3) of the Act, as amended.

We Will Not, in any like or related manner, restrain or coerce employees in the exercise of their rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8(a)(3) of the Act, as amended.

We Will notify Walsh Construction Company, in writing, and will furnish a copy to Jack L. Wood, that we have no objection to Wood's employment at the Company's Oroville, California, yard and shop.

We Will make whole Jack L. Wood for any loss of pay he may have suffered as a result of our discrimination against him.

Dated.....

INTERNATIONAL      BROTHERHOOD      OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO,

(Labor Organization).

By.....

(Representative) (Title).

This notice must remain posted for 60 consecutive days from the date hereof, and must not be altered, defaced or covered by any other material.

---

Before the National Labor Relations Board  
Twentieth Region

Case No. 20-CB-760

INTERNATIONAL      BROTHERHOOD      OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO,

and

JACK L. WOOD, an Individual

Before: David F. Doyle, Trial Examiner.

PROCEEDINGS

San Francisco, California,

Tuesday, June 21, 1960

Pursuant to notice, the above-entitled matter came on for hearing at 10:00 o'clock a.m.



Appearances:

PHILIP PAUL BOWE, ESQ.,

Appearing on behalf of the General Counsel, National Labor Relations Board.

BRUNDAGE, NEYHART, GRODIN &

MILLER, by

JOSEPH R. GRODIN, ESQ.,

Appearing on behalf of I.B.E.W., Local No. 340, AFL-CIO.

\* \* \*

Mr. Bowe: At this time I would like to offer for the record my understanding of an oral stipulation concerning jurisdiction which it is my understanding Respondent will agree to.

This stipulation is as follows:

Walsh Construction Company, herein called the Employer, is now and has been at all times material herein an Iowa corporation with its main office located in Davenport, Iowa. It is engaged in the business of general contracting.

During the calendar year ending December 31, 1959, the Employer in the course of its business operations performed services valued in excess of \$50,000.00 in states other than the State of Iowa wherein the Employer is located and has its principal place of business.

The Employer is engaged in commerce and operations affecting commerce within the meaning of Section 2(6) and (7) of the Act.

Trial Examiner: Do you accept the stipulation?

Mr. Grodin: So stipulated.

Mr. Bowe: At this time I would like to offer in evidence by stipulation a copy of the 1959 and 1961 collective [6\*] bargaining agreement between Local 340 of the International Brotherhood of Electrical Workers and the Sacramento Valley Chapter of the National Electrical Contractors Association with the stipulation that Mr. Grodin is agreeable that this is a true and accurate copy of such contract and the contract is referred to in the General Counsel's Complaint in a paragraph which is admitted in Respondent's Answer.

Mr. Grodin: So stipulated.

Trial Examiner: The stipulation is accepted, and pursuant to the stipulation the contract is admitted in evidence and we shall assign that, what number?

Mr. Bowe: General Counsel's No. 2.

Trial Examiner: General Counsel's No. 2, the agreement mentioned is received in evidence.

(Whereupon, the document above referred to was marked General Counsel's Exhibit No. 2 for identification and received in evidence.) [7]

---

\*Page numbering appearing at top of page of original Reporter's Transcript of Record.

GENERAL COUNSEL'S EXHIBIT No. 2

\* \* \*

Central Headquarters

W. J. Campbell, Business Manager

Local Union 340

International Brotherhood of Electrical Workers

5841 Newman Court, Sacramento, California

Phone: GLadstone 5-2613

Joseph T. Krivanek, Business Manager

Sacramento Valley Chapter

National Electrical Contractors Association, Inc.

5300 Elvas Avenue, Sacramento, California

Phone: GLadstone 2-3528

Dispatching Offices

Sacramento

Mon., 8-12 A.M.—Tues., 8-10 A.M.—Wed., 8-10 A.M.

Thurs., 8-10 A.M.—Fri., 8-10 A.M. and 3-5 P.M.

5841 Newman Court. GLadstone 5-2613

Marysville

Tues., 8-9 A.M.—Thurs., 8-9 A.M. and 4-5 P.M.

SHerwood 2-5750

Chico

Mon., 8-9 A.M.—Wed., 8-9 A.M.

Fri., 8-9 A.M. and 4-5 P.M.

210 W. 6th Street. Fireside 2-3877

General Counsel's Exhibit No. 2—(Continued)

Redding

Mon., 8-9 A.M.—Tues., 8-9 A.M.—Wed., 8-9 A.M.

Thurs., 8-9 A.M.—Fri., 8-9 A.M. and 4-5 P.M.

1310 California Street. Chestnut 1-2468

## Article IX

### Referral Procedure

#### Introduction

Section 1. In the interest of maintaining an efficient system of production in the industry, providing for an orderly procedure of referral of applicants for employment, preserving the legitimate interests of the employees in their employment status within the area, and of preventing discrimination in employment because of membership or non-membership in the union, the parties hereto agree to the following system of qualifying and referring applicants for employment.

Section 1a. The Union shall be the sole and exclusive source of referrals of applicants for employment.

Section 1b. The Employer shall have the right to reject any applicant for employment.

Section 1c. The Union shall select and refer applicants for employment without discrimination against such applicants by reason of membership

General Counsel's Exhibit No. 2—(Continued)

or non-membership in the union and such selection and referral shall not be affected in any way by rules, regulations, bylaws, constitutional provisions or any other aspect or obligation of union membership policies or requirements. All such selection and referral shall be in accordance with the following procedure.

Section 2. Group Classification. The Union shall maintain a register of applicants for referral established on the basis of the groups listed below. Each applicant shall be registered in the highest priority group for which he qualifies.

Section 2a. Group 1. All applicants for referral who have proof of (1) forty-eight months or more of experience on the types of work covered by this Agreement; (2) have passed an examination, as defined below; (3) are residents of the geographical areas constituting the normal construction labor market as defined below; and (4) have been employed under a collective bargaining agreement between the parties to this agreement for a period of at least twelve months during the forty-eight months preceding registration.

Section 2b. Group 2. All applicants for referral who have proof of (1) forty-eight or more months experience on the types of work covered by this Agreement, as defined below; (2) have passed an examination, as defined below; (3) are residents of the areas surrounding the normal construction labor market as defined below; and (4) have been em-

General Counsel's Exhibit No. 2—(Continued)  
employed for a period of at least 12 months in the forty-eight months preceding registration under a collective bargaining agreement between parties to an Agreement in their respective areas.

Section 2c. Group 3. All applicants for referral who have proof of (1) forty-eight or more months' experience on the types of work covered by this Agreement and (2) have passed an examination, as defined below.

Section 2d. Group 4. All applicants for referral who have proof of (1) twenty-four or more months' experience on the types of work covered by this Agreement; (2) are residents of the geographical area constituting the normal construction labor market as defined below; and (3) who have been employed at least six months in the twenty-four months preceding registration under a collective bargaining Agreement between the parties to this agreement.

Section 2e. Group 5. All applicants for referral who have proof of twelve or more months' experience on the types of work covered by this Agreement.

Section 3. If the registration list is exhausted and the Union is unable to refer applicants for employment to the Employer within forty-eight hours from the time of receiving the Employer's request, Saturday, Sunday, and holidays excepted, the Employer shall be free to secure employees at

General Counsel's Exhibit No. 2—(Continued)  
wages and conditions shown in the Agreement without using the referral procedure, but such employees, if hired, shall have the status of "temporary employees." The employer shall notify the Business Manager within twenty-four hours of the names and Social Security numbers of such temporary employees.

Any temporary employee hired by the Employer for work of the types covered by this Agreement shall be replaced within twenty-four hours after the Employer has received notice from the Union that an applicant is available in groups one to five, inclusive, and such employee shall be paid at the rate specified in the Agreement for the class of work done. Proof of such payment shall be furnished by the Employer upon demand.

Section 4. Registration Procedures. Any person who by their own admission cannot meet the requirements of the trade as set forth in the Agreement between Local No. 340, IBEW, and the Sacramento Valley Chapter, NECA, shall not be registered or given an examination.

Section 4a. The records for referral shall be kept available for inspection.

Section 4b. Employers shall advise the Business Manager of the Local Union of the number and classification of applicants needed. The Business Manager shall then refer applicants to the employers as described herein.

## General Counsel's Exhibit No. 2—(Continued)

Section 4c. Applicants' names will be placed on the referral list in the order in which they register their availability for work. Persons in Group 1 shall be referred first, in that order, and the same procedure shall be followed successively for Groups 2, 3, 4 and 5, subject to the following qualification:

When the Employer states bona fide requirements for special skills and abilities in his requests for applicants, the Business Manager shall refer the first applicant on the referral list possessing such skills and abilities.

The Business Manager, when referring applicants with special skills shall take into consideration the applicant's own estimate of his ability to perform the work requiring such special skills, the applicant's record of experience on such work and the Business Manager's knowledge, if any, of the estimate which contractors have made of the applicant's skills and abilities to perform such work.

Section 4d. Decisions of the Business Manager in referring applicants are appealable to the Appeals Committee as herein provided. Such appeals shall be made within forty-eight hours and a decision of the Appeals Committee shall be rendered within one week after receipt of the appeal by the Committee. Forms will be provided at the dispatch office for appeals.

\* \* \*

Received in evidence June 21, 1960.



\* \* \*

Mr. Bowe: Mr. Grodin, will you consider this stipulation, that on December 23rd, 1959, Mr. Wood registered on the out-of-work list at the Chico hall of Local 340, and was placed on the No. 3 out-of-work book?

Mr. Grodin: Yes, with this qualification, when you say he was placed on the No. 3 book, it implies that he was directed to register in that book. I am not sure whether he was, but I will stipulate that he did register on the group 3 list which is in the same book as the group 4 list.

Trial Examiner: All right; is that satisfactory?

Mr. Bowe: That is satisfactory.

Trial Examiner: The stipulation is accepted.

Mr. Bowe: That on January 22nd, 1960, a Mr. Ward, W-a-r-d, Mr. Merridith Ward, registered at the Chico hall, on January 22nd, 1960, in the No. 4 book. [18]

\* \* \*

Mr. Bowe: All right.

That on February 5, 1960, Mr. Wood was changed from the group 3 book to the group 4 book, again no connotation meant from the word "changed," just the fact that it occurred on this date.

Mr. Grodin: On February 5th, 1960, he registered his name in the group 4 book.

Mr. Bowe: All right.

Trial Examiner: All right, the stipulation is accepted.

Mr. Bowe: That on February 5, 1960, a Mr. Olds, O-l-d-s, Arnold Olds, registered in group 1 and that on that same date he was referred by the Union to the Walsh job in question.

Mr. Grodin: Yes, we will so stipulate.

Trial Examiner: The stipulation is accepted.

Mr. Bowe: That on February 12, 1960, Mr. Merridith Ward was dispatched to the Walsh job and hired, actually.

Mr. Grodin: Yes, so stipulated.

Mr. Bowe: And going back to Mr. Olds, to complete that stipulation, he was not hired.

Mr. Grodin: That is correct.

Trial Examiner: The stipulation is accepted.

Mr. Bowe: That on March 11th, 1960, a Mr. Wheeler, Mr. W. Wheeler, registered in the group 1 book, that on [19] March 18, 1960, Mr. Wheeler was referred to the Walsh job and was hired; that on March 28, 1960, a Mr. Wing, W-i-n-g, Mr. Charles Wing, registered in group 1.

Mr. Grodin: You are going too fast.

Mr. Bowe: I am sorry.

Mr. Grodin: Would you repeat that last——

Mr. Bowe: That on March 28, 1960, a Mr. Charles Wing, W-i-n-g, registered in group 1.

Mr. Grodin: Yes.

Mr. Bowe: That on April 22nd, 1960, Mr. Wing was sent out to the Walsh job, worked a day and a half, and then was rejected.

Trial Examiner: Is that correct?

Mr. Grodin: Well, we don't know how long he worked but we know he was sent out there on that day.

Trial Examiner: The stipulation is accepted with that statement of Mr. Grodin's. [20]

\* \* \*

Mr. Bowe: Therefore, I would like to change the stipulation to the effect that on May 2nd, 1960, Mr. McAdams registered and was referred from the Union hall, that on May 3rd, 1960, he appeared on the job site and was rejected by Mr. Shulz.

Trial Examiner: All right, the stipulation is accepted. [21]

\* \* \*

#### RUDOLPH C. SHULZ

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Trial Examiner: Mr. Shulz, will you speak up? This room is a little bit quiet now, but usually it is pretty noisy from that street out there and we will have some trucks going by and the first thing you know none of us can hear what is going on. [22]

\* \* \*

#### Direct Examination

By Mr. Bowe:

Q. Did I spell your name correctly, Mr. Shulz?

A. S-h-u-l-z.

Q. Are you employed, Mr. Shulz?

A. I am.

Q. With whom?

(Testimony of Rudolph C. Shulz.)

A. Walsh Construction Company.

Q. What is your job, sir?

A. I am an electrical superintendent in charge of all electrical work on the West Coast.

Trial Examiner: Now, didn't we get this witness' first name?

The Reporter: Yes, sir.

Trial Examiner: All right.

Q. (By Mr. Bowe): What type of work is done by Walsh Construction Company?

A. Well, Walsh Construction Company do all types of heavy construction such as bridges and large buildings and industrial plants and power houses and numerous other heavy construction [23] jobs.

\* \* \*

A. Well, the electrical shop in Oroville is for the prime reason of storing all types of equipment that has to be repaired between jobs or during job construction. We have a large machine shop and electrical shop. We are doing the construction, period, on various outlying jobs. The major repair work is done in the Oroville yard and we repair all types of locomotives and batter—battery switch gears and line hoists and transformers, everything that pertains to this heavy construction work, including all mechanical work.

Q. Do you do the mechanical work or does the machine shop [24] do that?

A. The mechanical work comes under the me-

(Testimony of Rudolph C. Shulz.)

chanical superintendent. The only mechanical work that I have to do which actually involves electrical work.

Q. When you get a new contract to do a general construction job does this necessitate any work at the shop?

A. It does. It required a good deal of repair work, all the used equipment which is stored in the yard must be completely reconditioned and gotten ready to send out on a new job so that we don't have a lot of repair or delay on the job. [25]

\* \* \*

Mr. Bowe: Well, didn't—or, couldn't I have a stipulation from you to the general effect that an employer can refer a man from one job to the other without sending him back to the hall as a general practice?

Mr. Grodin: Well, as a general practice, the answer is [26] no. If the jobs are so different as to undermine the original basis upon which the man was referred, that is, if the man is referred out of order on the basis of some special skill, but the special skill is either necessary only for a very brief period or is illusory for the purpose of getting the man on other work which a man higher up on the list would otherwise be referred to, then the answer is no.

Mr. Bowe: But other than that, an employer could switch men from job to job without referring them back to the hall?

(Testimony of Rudolph C. Shulz.)

Mr. Grodin: Subject to the qualifications that I mentioned.

Mr. Bowe: Yes.

\* \* \*

Q. (By Mr. Bowe): What type of skills, if any, are [27] required for work in your electrical shop in Oroville, in your opinion?

A. Well, I do a lot of DC motor work and I do a lot of battery repair work; we have about \$150,000.00 worth of storage batteries in our Oroville yard at the present time which must be maintained and repaired, and, of course, to do that the man must have—be able to do some lead burning. He has to know how to take these cells apart and replace separators or whatever may be necessary and, of course, our locomotives are DC battery operated locomotives; they have to be stripped right down to the bare iron and completely reconditioned and assembled and gotten ready for a new job.

Q. Would you describe what one of these batteries physically look like and the size of it?

A. Well, these batteries, the larger ones, are about ten feet long and about five feet wide, and weight about eight ton, and are valued at about \$9,000.00 each.

Q. In your opinion, Mr. Shulz, can an average journeyman electrician, would he possess the skill?

A. No, he would not. [28]

\* \* \*

(Testimony of Rudolph C. Shulz.)

Q. Now, when you hire people for the shop, you get them out of what hall? A. Chico.

Q. That is Chico hall of 340? A. Yes.

Q. Why did you get the tunnel men, or request for tunnel [31] men from the Sacramento hall of 340?

A. Well, it was the nearest to the job, nearest office to the job.

Q. In requesting these tunnel electricians, did you request any special skills when you requested the men from Local 340?

A. We made a request for an electrician that had some tunnel experience.

Q. And how many men were sent out in answer to this request from 340?

A. There were three sent out and I sent one back.

Q. Why did you send that one back?

A. Well, he was sixty-one years of age and he wasn't agile enough for this type of hazardous construction and he didn't seem to understand too much about the work.

Q. Did you interview the other two as to their past experience in tunnel work when you hired them? A. I did.

Q. Now, as of January 1, 1960, how many electricians did you have working in your shop in Oroville?

A. January 1, I believe, I had one electrician.

Q. And who was that?

A. Robert Shulz.

(Testimony of Rudolph C. Shulz.)

Q. Is he any relation to you?

A. He is my son. [32]

Q. How soon after that date did you need another man if you did need another man?

A. I believe somewhere along the 15th of January I called for another man.

Q. Who did you call?

A. I called Mr. Hamilton.

Q. Who is Mr. Hamilton?

A. Mr. Hamilton is the business agent for Local 340 in the Chico area.

Q. And tell me the conversation that took place between you and Mr. Hamilton at this date.

A. Well, I told him that Mr. Ward had returned from the job that he had in Nevada and I'd like to have him cleared for this work in the shop. [33]

\* \* \*

Q. Did you make any request for another man other than Mr. Ward in this first conversation?

A. I believe I did mention Mr. Ward.

Q. Did you make any request, not by name, for a man just possessing these skills?

A. Well, yes.

Q. Well, tell me what you said.

A. I told him I was in need of a man that could repair batteries, repair these DC locomotives, and charging sets, and do some setting and some welding and some lead burning and so on.

Q. And what did he reply?



(Testimony of Rudolph C. Shulz.)

A. He said he would find me someone with those skills.

Q. And this was about January 15th of 1960?

A. I believe it was about then.

Q. Is Mr. Ward any relation to you?

A. Mr. Ward is my son-in-law.

Q. Your son-in-law. Has he worked for the Walsh Construction Company before?

A. He has worked for the Walsh Construction Company about eleven or twelve years.

Q. Approximately how much of that time was in the Oroville shop? [34]

A. That is hard to say, possibly, oh, maybe a year or a year and a half between jobs.

Q. Now, to get this time sequence straight in your mind, the first call you have testified was about January 15, 1960.

You heard the stipulation to the effect that Mr. Ward actually registered in the Union hall about January 22nd, 1960? A. Yes.

Q. Now, what happened next in connection with this job?

A. Well, they sent a man out, I believe, by the name of Mr. Olds.

Q. And this was approximately when?

A. I would say it would be the early part of February, maybe the first week in February.

Q. Now, between the time of the first telephone call and the time Mr. Olds was sent out on February 5, 1960, were there any more phone conversations between you and Mr. Shulz?

(Testimony of Rudolph C. Shulz.)

Trial Examiner: Mr. who?

The Witness: Pardon?

Q. (By Mr. Bowe): Between you and Mr. Hamilton.

A. Yes, I believe I called him again and made some mention that he had a Mr. Wood up there that had worked for the Company in the past and I felt that he was qualified to fill this job. [35]

Q. What, if anything, was Mr. Hamilton's response? A. I don't remember.

Q. Mr. Olds came out to the job on February 5, 1960. Was he hired?

A. No, he was not. I interviewed the man and by his own admission he wasn't qualified to fill the job; so I sent him back to the Union hall.

\* \* \*

Q. After you rejected Mr. Olds, what happened next?

A. I believe Mr. Ward was cleared then. [36]

\* \* \*

Q. After February 12, 1960, what happened next in connection with this job?

A. I believe I called up and told Mr. Hamilton that——

Q. Approximately when did you call up Mr. Hamilton?

A. It was the 5th that Mr. Olds came out.

Q. The 5th of February that Mr. Olds came out. The 12th of February that Mr. Ward came out.

(Testimony of Rudolph C. Shulz.)

Now when was the next phone call?

A. Oh, approximately two weeks later.

Q. And, as well as you can remember, relate this phone [37] conversation for us, Mr. Shulz.

A. I told Mr. Hamilton I needed another electrician with the special skills that I had requested before.

Q. Was Mr. Wood mentioned in the phone conversation?      A. I don't remember.

Q. But you do remember that he had been mentioned in an earlier conversation?

A. Absolutely right.

Q. What was Mr. Hamilton's response when you told him you needed another man with these special skills?

A. He said he would find me someone with those special skills.

Q. And what happened next after this phone conversation?

A. I believe it was two weeks elapsed and I think he sent out a man by the name of Mr. Wheeler then.

Q. You heard the stipulation that Mr. Wheeler arrived on March 18, 1960. Did anyone arrive with him on that date?

A. Mr. Hamilton and Mr. Wood.

Q. Relate what was said when the three men arrived on the job site.

A. Mr. Hamilton brought Mr. Wheeler in and introduced him, and Mr. Wheeler gave me a clearance to go to work, and I told him that if he wasn't

(Testimony of Rudolph C. Shulz.)

qualified to do the work, why, he could go down the road, but Mr. Wheeler had worked for the Walsh Company for some year or two previous and had [38] recollected that he had this necessary experience, so I thought he would be satisfactory; so I employed him.

Q. What do you mean by the phrase "go on down the road"?

A. He would be discharged.

Q. Was there any other conversation?

A. I believe Mr. Wood asked me if I needed another man.

Q. What did you answer?

A. I would like to correct that.

I believe he said did I have a request for another electrician.

Q. What did you answer?           A. I said no.

Q. Were Mr. Hamilton and Mr. Wheeler present during this exchange between you and Mr. Wood?           A. They were.

Q. How close were they?

A. Oh, four or five feet.

Q. Is Mr. Wheeler still working for you?

A. He is.

Q. What happened next in connection with this job after Mr. Wheeler was hired?

A. I believe about two weeks later I called Mr. Hamilton for another man.

Q. Did you make any reference to the special skills on this call? [39]

A. I did; I still needed men with the special

(Testimony of Rudolph C. Shulz.)

skills, as that was the only type of work that I had to do.

Q. Could you tell me again what those special skills were that you told Mr. Hamilton you needed?

A. I needed a man that knew DC locomotive repair, could repair locomotive batteries, and had some lead burning experience, and should be able to do some cutting and welding.

Q. And what did Mr. Hamilton reply this time?

A. He said he would find me someone with those special skills.

Q. Was Mr. Wood's name mentioned in this phone conversation?

A. I don't remember.

Q. What happened next?

A. I think there was about two weeks elapsed, and I think there was a man by the name of Mr. Wing was sent out.

Q. And the stipulation indicates that he was sent out on April 22nd, 1960. Did you interview him?

A. I interviewed him and I didn't think that he possessed the necessary skills, although I put him to work on a job of checking some batteries to be sure that he couldn't do the work.

He worked about four hours, or three hours, and he didn't seem to know what he was doing, so I went over to the office and made out a discharge slip and gave him the discharge slip at about, oh, 11:00 o'clock or something like [40] that, and he went over to the office, and the office had no blank

(Testimony of Rudolph C. Shulz.)

checks to pay him off, so I put him back to work, and at noon the next day I believe he was paid off.

Q. What happened next?

A. I called Mr. Hamilton and told him that——

Q. How soon after Mr. Wing was rejected?

A. Oh, possibly the next day.

Q. What was the conversation?

A. I told him I still needed an electrician to fill the job with the special skills. To the best of my knowledge, he said he would find me someone.

Q. What happened next?

A. I believe the next few days or a week Mr. Hamilton and Mr. Campbell——

Q. Who is Mr. Campbell?

A. Mr. Campbell is the business manager who was in charge of Local 340.

Q. All right; go ahead.

A. I believe they appeared with also the president of the local.

Q. At the shop?

A. Yes, and we went over into the office and they wanted to discuss about these men with these special skills; we had a little discussion, and I believe Mr. Campbell said he would find me someone with these special skills, and a few days [41] later, why, they sent me a man.

Q. And that, according to the stipulation, was on May 3rd, 1960, and Mr. McAdams; did you interview him?      A. I did.

Q. Was he hired?

A. He was not; he didn't have the special skills.

(Testimony of Rudolph C. Shulz.)

I asked him a few simple questions about what takes place in a battery when it is charged and discharged, and he couldn't answer, and I gave him a simple wiring diagram of a locomotive and I asked him to tell me the sequence of operation, which he didn't know; so I felt that he wasn't qualified to do the work that I had to do, so I sent him back to the Union hall.

Q. And what happened next?

A. I believe that same afternoon, or that same day, I believe Mr. Hamilton called me and asked me if I was still in need of a man to do this work with these special skills.

Q. What did you reply?           A. I said yes.

Q. Have you received any men from the Union hall since that day?

A. Not for employment in the Oroville yard.

Q. Are Wheeler, Ward and your son, Shulz, still working for the Company?

A. Yes. [42]

\* \* \*

#### Cross-Examination

By Mr. Grodin: [45]

\* \* \*

Q. While the job is in progress and you have built up the number of men in the shop to a sufficient number to take care of the equipment necessary for the job, do you sometimes then transfer

(Testimony of Rudolph C. Shulz.)

people from the shop to the job, even while it is in progress?      A. I do.

Q. And, as I understand it, you never know from one day to the next when you are going to want to do that, is that correct? [46]

A. An emergency might arise on the job whereby I might have to take a man from the shop and send him to the job and then bring him back to the shop again, and——

Q. And that could happen any time?

A. It could.

Trial Examiner: May I interrupt a moment?

Now as far as any work which is done at the site of this tunnel, is it all repair work of these machines and batteries and so forth?

The Witness: I must have some men on the job which are capable of making these on-the-spot repairs.

Trial Examiner: That is what I meant; these men don't participate in the actual construction in any way, do they?

The Witness: Yes, they would have to do some of the actual construction, too.

Mr. Bowe: That is electrical construction?

The Witness: Electrical construction.

Trial Examiner: That is what I was getting at. Do they do anything like running power lines into this tunnel and maintaining them in there?

The Witness: They also do that, and if there is a failure on the locomotive or battery charger,



(Testimony of Rudolph C. Shulz.)

the man has to be capable of making the repair immediately.

Trial Examiner: All right.

Q. (By Mr. Grodin): Now, with respect to the test that you [47] gave Mr. McAdams when he was referred to you by the Union, you say that you gave him some wiring diagrams for the locomotives and asked him to tell you the sequence of operation.

Did you do that with other people who reported for work as well? A. I don't think so.

Q. How did you happen to do it with Mr. McAdams? A. I don't know. [48]

\* \* \*

### JACK L. WOOD

was called as a witness by and on behalf of the General Counsel, and, having been first duly sworn, was examined and testified as follows: [54]

#### Direct Examination

By Mr. Bowe:

\* \* \*

Q. What is your occupation, Mr. Wood?

A. I am an electrician.

Q. When did you move to California?

A. In June of 1953.

Q. In what city were you employed before that?

A. In Laramie, Wyoming.

Q. What type of work did you do in Wyoming?

(Testimony of Jack L. Wood.)

A. For four years I was a mine electrician for the Union Pacific Coal Company.

Q. In the course of that job, what types of work did you do?

A. It consisted of mine locomotive repair.

Q. What type of locomotives are these?

A. They are direct current locomotives.

Q. When you worked in—before you came to California, were you a member of a labor organization?

A. I have been a member of the IBEW in Cheyenne, Wyoming.

Q. What was the local number? A. 775.

Q. What type of local is that?

A. It is a local that has jurisdiction over railroad electricians. [55]

Q. Where did you originally get your electrical experience?

A. I was in the Navy in the early 1940's, 1944 and '45, and during this time while I was in the Navy they sent me to an electrical training school at the University of Minnesota at Minneapolis, Minnesota, and after I received a diploma from that school I was a shipboard electrician and was discharged as an electrician's mate third class.

Q. Where were you first employed when you first moved to California?

A. I went to work for the Western Pacific Railroad Company at Oroville.

Q. What type of work were you doing for them?

A. I was an electrician for them.

(Testimony of Jack L. Wood.)

Q. In the course of that job, what type of work and what pieces of equipment did you work on?

A. I worked on diesel locomotives and shop equipment and at various times would put in a service or an outlet for a welder or portable equipment pump and so on.

Q. Were you a member of any labor organization while you held this job?

A. I joined Local Union No. 800 in Sacramento in July or August of 1953.

Trial Examiner: Local 800 of what union?

The Witness: IBEW.

Q. (By Mr. Bowe): What type of local is [56] this?

A. This is a railroad local, that is the local having jurisdiction over railroad electrical employees.

Q. Are you currently a member?

A. I am.

Q. What was your next job?

A. After leaving the railroad I went to work for the Walsh Construction Company in May of 1957.

Q. How long did you continue on this job?

A. Approximately eighteen or nineteen months.

Q. How did you obtain this job?

A. I was still working on the railroad and the talk about all the construction going on in this area and having an interest in property holdings near some of the construction going on, I went to the Walsh yard to—at that time I didn't know what kind of work Walsh was engaged in or any-

(Testimony of Jack L. Wood.)

thing. I had never been out there before. I didn't know any of its employees or anything. I went out there primarily to see if perhaps some of the land we had couldn't be leased by the company for equipment or something like that, and then is when I found out that Walsh was engaged primarily in tunnel construction at Oroville.

Q. And what steps did you take to get this job?

A. By walking through the shop, I noticed the mine locomotives, with which I am very familiar, approximately the same type that I have had quite a bit of experience on, and I [57] ran into Mr. Shulz, and I asked him about whether Walsh had any contracts around close to where that land of ours was, and in the ensuing conversation Mr. Schulz—I indicated that I had a lot of experience in that line of work, so he suggested that I go to Sacramento and get a clearance to go to work and go to work for him then. He needed a man with that kind of experience.

Q. Get a clearance from whom?

A. From Local Union No. 340 in Sacramento.

Q. And did you? A. (No response.)

Q. Did you get such a clearance?

A. I did.

Q. Was Local 340 a railroad local?

A. It is what is known as an inside wireman's local, primarily I believe that is what it is [58] called.

(Testimony of Jack L. Wood.)

Q. (By Mr. Bowe): Who did you pay the local dues to?           A. Local 340.

Q. Who did you pay the regular dues to?

A. Local Union No. 800.

Q. What type of work did you do for Walsh?

A. I worked in the yard at Oroville repairing locomotives [59] and modifying hoist controls, wiring of concrete, tunnel concrete equipment, construction around the yard, in the warehouses, in the office, repairing batteries. [60]

\* \* \*

Q. When did you quit this job with Walsh?

A. I did not quit.

Q. When did you leave this job with Walsh?

A. I was laid off in December of 1958.

Q. What did you do about getting a job after that?

A. I went to the dispatcher in Chico and put my name on an out-of-work list, an ordinary looking ledger that they had. I do not believe that this referral system was in effect at that time. I put my name at the bottom of a list; however, there was two books there. As I understand, one book was for travelers and one was for members.

Q. How did you understand this?

A. Because the business agent there told me so.

Q. What did he say?

A. He said, "That is the travelers' book there; that is the one you are supposed to sign."

Q. Did he explain to you the difference between being on the travelers' book and the other book?

(Testimony of Jack L. Wood.)

A. I can't remember the exact conversation that took place, but I do know one was a travelers' list and one was a members' list.

Q. Well, from your own knowledge—— [61]

A. And——

Q. Go ahead.

A. I understood that the travelers would not be referred until the list on the members' book had been expired.

Q. Did you get a job?

A. A little later that month, yes, I was referred to Wismer & Becker Electric Company, who are subcontracting for Peter Kewitt & Sons.

Q. How long did you work for Wismer & Becker?      A. Approximately one year.

Q. Did you pay any dues while you held this job?

A. I paid my dues into Local Union No. 800, and working dues, dobie, to Local Union No. [62] 340.

\* \* \*

Q. Did you take any steps to join Local 340 while you held this Wismer & Becker job?

A. Yes.

Q. What steps did you take?

A. I had my two years' experience that I was formerly told was required and so I obtained an application form from the Chico office and presented a traveling card from Local 800. I paid three months in advance, and on this form I listed

(Testimony of Jack L. Wood.)

my experience, and I presented it to the executive board, I think it was. Anyway, the executive board is the one that handles it, and it got into their hands, anyway. I believe that was in July. Now, it may have been August, or it might have been June.

Q. This was '59?           A. '59, yes.

Q. And what resulted?

A. Oh, about three months later I got a letter from Local Union 340 stating that my card would not be accepted at this time, not giving any reason why, only that it would not be accepted at this [63] time.

\* \* \*

Q. When did you leave the Wismer & Becker job?

A. I left December the 19th. I think it was December the 19th, yes.

Q. Why did you leave the job?           A. 1959?

Q. Why did you leave the job?

A. Primarily for personal reasons. At home I have a daughter who is ill, can't attend school, and I was so far away from home, and I own my own home in Oroville, I just couldn't see moving to Placerville, things being in the condition they were, so I came home, and I quit primarily for that reason.

Q. What position did you hold on this Wismer & Becker job when you quit?

A. I was a tunnel electrical foreman.

(Testimony of Jack L. Wood.)

Q. Did you have any exchanges with union representatives of 340 about receiving that job?

A. Do you mean conversations, Mr. Bowe?

Q. Yes, sir. A. Yes, I did. [64]

Q. Who was that business representative?

A. Mr. Jack Galvin.

Q. What office did he work out of?

A. Sacramento office of Union No. 340.

Q. Will you tell me the exchange that took place between you and Mr. Galvin?

A. Well, Mr. Galvin came to the job several times and his attitude was always very friendly excepting for one time, I won't bother to explain, but his attitude when he came to the job the first two times that I remember, he was very, he seemed a little disturbed because I particularly had transferred to that job at Union Valley from Tunnels 4 and 5, but he thought it was all right.

Q. You transferred within Wismer & Becker; you were still working for Wismer & Becker, but you transferred from one tunnel job to another tunnel job? A. I did that.

Q. Approximately how many miles apart were these two tunnel jobs?

A. 120, maybe, or thirty.

Q. All right. Tell me the exchange that took place between you and Mr. Galvin that you referred to at this time. [65]

\* \* \*

Q. (By Mr. Bowe): Forgetting his attitude, state only what was said by you and Mr. Galvin.



(Testimony of Jack L. Wood.)

A. On his first visit, Mr. Galvin——

Q. No, just the last visit.

A. The last visit?

Q. Yes.

A. That was some time in November, just prior to Thanksgiving, Mr. Galvin showed up on the job and a little bit of a beef or argument developed.

Q. What was said?

A. Well, I asked Mr. Galvin who had called Wismer & Becker in, the subcontractor for the job, and notified them that there was an incompetent foreman on the job up there, and during this conversation Mr. Galvin and I both became perhaps pretty angry, and he said to me, "Why don't you go back to where you came from?" But to this day I don't know who instigated such a move as to try to—— [66]

\* \* \*

Q. (By Mr. Bowe): After you left the Wismer & Becker job, did you take any steps towards getting another job?

Trial Examiner: Well, we didn't cover that, did we?

Mr. Bowe: It has no relevance.

Trial Examiner: All right, that is good.

Q. (By Mr. Bowe): Did you take any steps toward getting another job, sir?      A. I did.

Q. What steps?

A. I went to Chico, California, and registered on the books.

(Testimony of Jack L. Wood.)

Q. On what day?

A. December 23rd, 1959.

Q. Who was in the office when you went in?

A. Mr. Hamilton was in the office.

Q. Did you talk to him through the dispatch window?

A. Not at that time; the electricians were just sitting around in the office.

Q. Where was Mr. Hamilton sitting? [67]

A. At his desk.

Q. All right. Now, think back carefully and relate just the conversation, just the words that were used by you and Mr. Hamilton in this conversation, and relate for us what was said.

Trial Examiner: Mr. Wood, this is pretty simple, and there is one way of getting at it, and that is what you did say to Mr. Hamilton, what did he say to you, and what did anybody else there say, and that is it.

A. I asked Mr. Hamilton to be on the out-of-work list and he complied by handing me an out-of-work book, and I signed, but at that time I said, "I have to be in group 1," and he said I'd have to be in group 3.

Q. (By Mr. Bowe): All right, go on.

A. He said I'd have to pass an examination to be in group 1.

Q. Did he ask you any other questions?

A. Yes, he asked me what union I belonged to.

Q. And what did you respond? A. 800.

(Testimony of Jack L. Wood.)

Q. Was there any other conversation?

A. I said to Mr. Hamilton, "I've come from the Union Valley job; I quit over there, and a man by the name of Leighton that you sent over has taken my place, and I broke him in," and Mr. Hamilton replied he didn't need any breaking in, he was already a tunnel man, and I said, "Yes, perhaps, but not [68] on that job." [69]

\* \* \*

Q. (By Mr. Bowe): Between December 23rd, 1959, and February 5, 1960, did you have any occasion to return to the union hall in Chico?

A. Yes, I did. I went to the union hall on an average probably of two times a week every week.

Q. What would you do when you went to the hall these times?

A. I would stick around a few minutes and ask Mr. Hamilton if there was any work, how things looked, and I asked him—it must have been a couple of weeks, something after I initially registered, I don't remember, but somebody told me you were supposed to give it to him in writing that you had been there, so I asked Mr. Hamilton about this and he said he knew that I had been there, that I could send in a card if I wanted to, but he didn't offer me any book to sign; so I wasn't familiar with the contract. I didn't—at that time I didn't know that there was any place on the slip to sign.

Q. Did you have any conversation with Mr. Hamilton between December 23rd and February 5,

(Testimony of Jack L. Wood.)

1960, in the union hall, other than the one you related?

A. Yes, about the examination, during that period they posted a notice on the wall that there would be an examination.

Q. What was the purpose of this [70] examination?

A. To move applicants for employment from group 4 to 3, to 2, to group 1, whatever the requirements are in the contract to be a journeyman wireman. It was a wireman's examination.

Q. And what was the conversation between you and Mr. Hamilton about this examination?

A. Well, I told him I would take it if that would put me in group 1. I don't know what he replied.

Q. How did you find out about the examination?

A. It was posted on the wall, and then——

Q. Where?

A. At the Chico dispatch office, inside of the office, and then I called Mr. Joe Krivanek; he is the Chairman of the NECA, and he knew where the examination would be.

Q. Did you in fact take this examination?

A. I did.

Q. When?

A. It was on January 16th, I believe.

Q. Did you have a conversation with Mr. Hamilton concerning the examination?      A. Yes.

Q. Before or after you took the examination?

A. Before and after, both. I asked him afterwards when they were going to send the result of

(Testimony of Jack L. Wood.)

the examination, and he replied that he didn't know, that it ought to be out by the next meeting; I think he told me that once. [71]

Q. And between December 23rd, 1959, and February 5, 1960, did you have any other conversations on any other subjects with Mr. Hamilton?

A. (No response.)

Q. Other than the examination and other than whether you had to sign the book or not?

A. Yes, I did have.

Q. What was it?

A. In regard to working at my previous employment for Walsh, I said to Mr. Hamilton, "I have worked for Walsh before, on that type of work they have in the yard out there."

Q. Did you have any discussion about what group you should be in?

A. Yes, I did. I went to my home local, or to Local 800, the shop committeeman there in Oroville, and I got a statement from the committeeman there that I had passed an examination insofar as the meaning of that contract went. It would be an experience rating test.

Q. What conversation did you have with Mr. Hamilton about this, if any?

A. Well, he wanted proof that I had passed an examination. He asked me for proof, so I got that, but he didn't accept it.

Q. Approximately during what period of time was this discussion with Mr. Hamilton?

A. It was during January, 1960. [72]

(Testimony of Jack L. Wood.)

\* \* \*

Q. What were the circumstances concerning your changing from one group to the other?

A. Mr. Hamilton went to the dispatch hall one morning and he handed me a——

Q. What morning, when?

A. It was in February, February the 5th, I believe.

Q. All right, what was said?

A. (No response.)

Q. You were in the dispatch hall?

A. Yes.

Q. For what purpose?

A. To see if there was any work, as usual.

Q. All right, what was said?

A. He handed me a group 4 book, and I told him, "How come?"

And he said I wasn't supposed to be in group 3, and actually there wasn't too much conversation between us on this, but he presented only the group 4 book for me to sign.

Q. And did you sign it?           A. I did.

Q. Did he ever tell you why you should be in group 4 as [73] opposed to group 3?

A. Yes, it was—the exact words I don't remember, but it was because I hadn't passed an examination yet.

\* \* \*

(Testimony of Jack L. Wood.)

Q. Did you ever have any conversations with Mr. Hamilton concerning the Walsh job?

A. Yes, after I registered on the books in Chico I did.

Q. Approximately when was your first conversation with Mr. Hamilton concerning the Walsh job?

A. Well, I initially registered there; I told Mr. Hamilton I had worked for Walsh.

Q. No, I am referring now to the fact that Walsh apparently made some request for a man in 1960 possessing some special [74] skills.

When did you first hear of this particular job in the shop?

A. It was in—I knew that Walsh would be needing men because, on account of I had worked there before. I knew what there was to do, but I didn't know that Mr. Shulz had asked for any special skilled men until some time in early February, I believe.

Q. Did you have any conversation with Mr. Hamilton concerning the job?

A. Yes.

Q. When was the first one?

A. In early February; concerning the prospect of me working on the job was probably in early February.

Q. What did he reply?

A. That there was a lot of group 1 men still ahead of me and so on, but then I heard about the special skills, so I wrote it on my dispatch slip finally.

(Testimony of Jack L. Wood.)

Q. Wrote what on your dispatch slip?

A. Lead burner, welder, DC repairman, and so on.

Q. Now, you have heard some testimony from Mr. Shulz concerning your appearance on the job on March 18, 1960. Will you go back to that morning of March 18, 1960, and tell me—well, first, did you go to the Union Hall that morning?

A. I did. [75]

Q. Did you have any conversations with Mr. Hamilton at the union hall that morning?

A. Yes.

Q. What was the conversation?

A. I went up to the window; he had the door locked, and they didn't go inside any more; they went to the dispatch window. And I said to Mr. Hamilton, "I think there is a job open at Walsh's for a special skilled man. How about me?"

And he replied, "I don't know anything about it."

But then immediately following that I talked to Mr. Wheeler and told him——

Mr. Grodin: Where?

The Witness: Downstairs. We had gone down on the sidewalk.

A. (Continuing): And I told him that I had asked Mr. Hamilton about this job, and so he said, "Well, I will go up and ask him."

So he did go up and ask him and obtained a clearance for the job.



(Testimony of Jack L. Wood.)

Q. (By Mr. Bowe): How do you know he obtained a clearance for the job?

A. Because when he came downstairs I was getting in my pickup over there and he waved it at me.

Q. Was anyone with him?

A. Mr. Hamilton was. [76]

Q. Where did Mr. Wheeler and Mr. Hamilton go then?

A. They started towards Oroville, so I followed them right on out to Walsh's yard that day, right in behind them.

Q. And what conversations took place at the job site?

A. Well, Mr. Wheeler and Mr. Hamilton and I walked into the shop and Mr. Shulz was standing there, and I said to Mr. Shulz, "Didn't you want two men?"

And he said, "No."

And I saw Mr. Wheeler hand his clearance to Mr. Shulz, and I heard Mr. Shulz ask him about his qualifications right there and——

Q. Since that date have you had any conversations with Mr. Hamilton about this job?

A. Yes, I have, very frequently.

Q. How often?

A. Every time I go to Chico to the dispatch window.

Q. Since February 5, 1960, have you been signing the out-of-work book?      A. I have.

(Testimony of Jack L. Wood.)

Q. Do you have to sign every visit or just once a week?

A. Just once a week providing it is that— doesn't extend over seven days.

Q. Have you only been going once a week?

A. No.

Q. How often have you been going? [77]

A. Two to three times, never less than two.

Q. In the course of these conversations, what reason has Mr. Shulz given you for not accepting you out on the job?

Trial Examiner: Not Mr. Shulz; you don't mean Shulz, do you?

Mr. Bowe: Thank you, sir.

Q. (By Mr. Bowe): Mr. Hamilton.

A. He's said he didn't know anything about it, Walsh needing a man, most every time I asked him, and——

Q. Has there been any discussion of whether you possess the necessary skills or not?

A. Yes, there has. I started writing it on my dispatch slip, that is, in that book, so he wouldn't overlook it any more.

Q. Did he say anything when you wrote them in? A. No.

Q. Wrote the skills in?

A. No, he did not, because that had been written on the men that had been cleared before, that was written on their dispatch slips when they were cleared.

Q. Has Mr. Hamilton ever had any occasion to

(Testimony of Jack L. Wood.)

talk to you about a job in Sacramento with the railroads?      A. Yes, he has.

Q. When?      A. Several times. [78]

Q. Between what periods of time?

A. In May he asked me, told me I could go back to the railroad local, they wanted men in Sacramento, but I said that I could not possibly work in Sacramento under the conditions, the wages, and no subsistence or anything, it would be impossible for me to live in Oroville and work in Sacramento at the railroad shop.

Q. After the February 5 incident when you were placed on another list, did you take any steps toward rectifying this?

A. Yes, February the 12th, when it became obvious I wasn't going to get an answer to that examination, January 16, I did make out a referral complaint.

Q. Before you made out the referral complaint, did you complain to anyone either orally or in writing, any union official?

A. Yes, Mr. Hamilton I did.

Q. Did you write to anyone?

A. No, I did not put it in writing, except the referral complaint.

Q. (By Mr. Bowe): Did you write a letter to Mr. Harbak?      A. Yes, I did.

Q. Who is Mr. Harbak?

A. He is the International Vice-President of this district.

Q. What union?      A. Of the IBEW. [79]

(Testimony of Jack L. Wood.)

Q. And this was dated February 4, 1960?

A. Yes, I did write that letter.

Q. And what was the purpose of that letter?

A. I told Mr. Harbak what happened. Mr. Myers wanted me for a foreman on that tunnel job out there at Gates & Fox's job at Oroville.

Q. Other than your complaint over the Myers' job, did you complain about anything else in this letter to the International President?

A. Yes, Mr. Myers had attempted to have me for a foreman, or get me for a foreman out [80] there.

\* \* \*

Mr. Bowe: At this time I would like to introduce as General Counsel's Exhibit No. 5 a document headed "Referral Complaint" and signed by Jack L. Wood, dated March 16, 1960—excuse me, this was 5?

Trial Examiner: This is 5.

Mr. Bowe: It is my understanding that Mr. Grodin will stipulate to the authenticity of this document, and I offer it in evidence at this time.

Trial Examiner: There being no objection, the document is received and marked General Counsel's Exhibit No. 5.

(Thereupon the document above referred to was marked General Counsel's Exhibit No. 5 for identification and received in evidence.) [82]

(Testimony of Jack L. Wood.)

GENERAL COUNSEL'S EXHIBIT No. 5

Referral Procedure Complaint

1. Name of Complainant (please print) Jack L. Wood.

2. Date and time of the questioned dispatch: March 18, 1960, 9:20 a.m. P.S.T.

(Month, day, year, time of day.)

3. On what grounds is the dispatch regarded as improper? (State fully. Your attention is called to the Rules on Appeal, particularly Sections 7 and 9. In the event the space is inadequate, continue on a blank sheet and attach to this sheet.)

Business Manager S. H. Hamilton referred Mr. Jack Wheeler on March 18th, at 9:20 a.m., to Walsh Const. Co. of Oroville, Calif., Mr. Wheeler registered his name on the books at Chico, Calif., Friday, March 4, 1960.

Mr. Schultz, Electrical Supt., for Walsh Const. Company, tried unsuccessfully for two weeks and six days, prior to March 4, 1960, (the date of Mr. Wheeler's registration), to hire a man possessing special skills, defined as welder, lead burner, D.C. equipment repairman, and battery repairman.

Mr. Schultz notified Mr. Hamilton that I, Jack L. Wood, (Complainant), did possess the skills required and had successfully performed such skills

(Testimony of Jack L. Wood.)

when previously employed by his company. This notification to Mr. Hamilton was made on Feb. 12, 1960. Mr. Hamilton, business manager, would not give me, Jack L. Wood, clearance for this job.

The above incident is a clear-cut violation of Art. IX, Section 4c, Paragraphs 2 & 3, of the referral procedure.

I, Jack L. Wood, am the target of discrimination by the business managers of L.U. 340 I.B.E.W. I wish to be reimbursed by said responsible parties at the rate of \$4.28 per hour, 40 hrs. per week, and five days subsistence pay at \$3.00 per day, since Feb. 12, 1960, to cessation of this discrimination.

I, Jack L. Wood, have been registered on the books, at Chico, since Dec. 23, 1959.

4. Precisely when did you become aware of the facts set forth in your answer to Question 3?

March 18, 1960, 11:00 a.m.

Dated: March 18, 1960.

/s/ JACK L. WOOD.

Full Signature of Complainant.

Address: 103 Worthy Ave.

City: Oroville, Calif.

JLW :jkg

cc

Received in evidence June 21, 1960.

(Testimony of Jack L. Wood.)

\* \* \*

Cross-Examination

By Mr. Grodin:

Q. Mr. Wood, when you went in to register on the Union's out-of-work list in December of 1959, did you notice at that time that there was a printed set of rules governing the operation of the hiring hall which was posted on the premises?

A. Not at that time.

Q. When did you first notice this set of rules?

A. It was later; how much later I don't recall, but Mr. Hamilton did call my attention to it later.

Q. Where was it when he called your attention to it?

A. Posted over behind the desk. If I describe the room, the desk sets in the corner, and they were posted over behind the desk next to a closet [84] door.

\* \* \*

Q. When you first went in to register, I understood you to say that Mr. Hamilton told you, you couldn't be in Group 1, and you asked him why, and he said it was something because you hadn't taken the examination, is that right?

A. He said you had to have proof of the [85] examination.

\* \* \*

Q. Did you ever see a copy of the collective bargaining agreement?

(Testimony of Jack L. Wood.)

A. Not until, I think it was the meeting in January—I beg your pardon; we had a copy of it there in our trailer at the Union Valley job, our shop trailer, but they didn't hang there 24 hours; we were supposed to have a copy there, but somebody took off with them, and I never did get a chance to read them. That was the only copy I had. It wasn't in a booklet like that or anything; it was just on a mimeographed paper, I believe. [86]

\* \* \*

Q. Now, you say you came in there two or three times a week after that until February 5?

A. I did.

Q. Did you ever see anybody go up and sign the

A. I saw them do something in the referral referral book?

A. I saw them do something in the referral book, but I did not look over their shoulder to see what they were doing.

Q. Did you see people doing something to the referral book week after week, the same people who had done it before?

A. I never paid any attention to that because I thought that my being there was in order and would qualify me for a job if one would arise, without penalty.

Q. You saw people doing something in the referral book; did it ever occur to you to inquire and ask what they were doing?

A. Yes, it did. About a month from that, less than that, I didn't know whether I was supposed



(Testimony of Jack L. Wood.)

to give him a slip of paper saying I am available for work or what, and that is what I asked [87] about.

\* \* \*

And I asked him who had done that, called Wismer & Becker, and he——

Q. Do you recall what he said?

A. (No response.)

Trial Examiner: If you don't recall, say "No."

The Witness: No, I don't recall what he said.

Q. (By Mr. Grodin): Do you recall anything else that was said during that conversation?

A. Yes, he said it was his job to protect the local members, No. 340, and I said, "You know I belong to the IBEW also," and "Don't you protect me, too?"

And he said, "Yes, I am supposed to."

Q. Anything else that was said?

A. (No response.)

Q. Well, let's go on and perhaps you will recall.

Now, when you went in to register in December of 1959, you say Mr. Hamilton handed you a green book which you signed? A. That is correct.

Q. Did you look to see what group number that book was?

A. At that particular date I didn't, no, but I knew it wasn't group 1.

Q. How did you know it wasn't group 1?

A. Because the color was wrong. That is the only way I had of identifying; I have seen group

(Testimony of Jack L. Wood.)

1 dispatches before, and they had a yellow book with yellow pages in it. [94]

Q. Well, if you saw the dispatch slips, you wouldn't see the color of the book, would you?

A. The pages in the book were green.

Q. The pages in the book that you signed were green?      A. Green.

Q. So from that you concluded that it was not a group 1 book?      A. I did conclude that, yes.

Q. I see. And then what did you say?

A. I asked Mr. Hamilton why I wasn't in group 1.

Q. Did you ask him what group this was?

A. I don't recall that I did, but I knew it wasn't group 1.

\* \* \*

Q. (By Mr. Grodin): Now, why were you concerned about being in group 1?

A. Because with my background and experience and so on I felt that I should be qualified to be in group 1.

Q. But why did it make any difference to you whether you [95] were in group 1?

A. Because I knew that group 1 men were sent out first.

Q. How did you know that?

A. Well, just from hearing the fellows talk on the job.

\* \* \*

Q. (By Mr. Grodin): Now, I am afraid I did not understand your explanation about the ex-

(Testimony of Jack L. Wood.)

amination, Mr. Wood. Would you go over that again? You saw on the wall a notice that an examination was to be held, is that correct?

A. I did.

Q. And did you then inquire as to whether you could take that examination?

A. I did not inquire. I just went and took it because I felt that I was eligible to take it and there wasn't any objection to me taking it.

Q. Did you pass the examination? [96]

A. I don't know.

Q. Did you make any efforts to find out?

A. I did.

Q. And what happened?

A. I called Mr. Christianson about a week after the examination had been given.

Mr. Bowe: Will you identify Mr. Christianson?

The Witness: Mr. Christianson is a dispatcher at Sacramento at the Local Union 340, and he told me that I'd probably be notified at the next meeting.

Q. (By Mr. Grodin): Were you notified?

A. No.

Q. Did you attend the next meeting?

A. Yes.

\* \* \*

Q. Now, on February 5, you say Mr. Hamilton gave you a group 4 book to sign?

A. A book with white pages in it. [97]

Q. Did you know what a group 4 book—

A. I did at that time, yes.

Q. And did you ask him why you had to sign

(Testimony of Jack L. Wood.)

the group 4 book?           A. Yes, I did.

Q. And he told you it was because you hadn't passed your examination yet?

\* \* \*

The Witness: Mr. Hamilton, as near as I can recollect, said that I wasn't qualified to take the examination. I believe it was at that time, yes.

Q. (By Mr. Grodin): And did you at that time look at the referral procedure?           A. I did.

Q. To see what was required?

A. Yes, I did.

Q. Was that the first time that you had looked at it? [98]

A. I believe at the meeting in January is when the agreement, those kind of agreements were passed out to the members. I got mine I believe the day before the meeting, or the Monday preceding the meeting.

Q. What date in January was that?

A. The meeting was the last Wednesday after the fourth Monday in January.

Q. Did you read the agreement?

A. I did. [99]

\* \* \*

Q. Did you have any conversation with Ward about it?

A. Yes, I did. I wanted to know why he was cleared before me, and he said that Mr. Hamilton said I hadn't verified.

(Testimony of Jack L. Wood.)

Q. Do you know what Mr. Ward meant when he said that Mr. Hamilton said you hadn't verified?

A. Yes, I did. Then I started verifying right around there, or around February 5th or 6th.

Q. And what do you mean when you say started verifying?

A. I put the date and my initials following the date. [101]

\* \* \*

Q. (By Mr. Grodin): Were you required to do this by the terms of the referral procedure, do you know?

A. I knew it after the agreements were passed out, yes.

Q. When the agreements were passed out in the January meeting you learned that you were required to verify, is that right?

A. I know that it said that in there, yes. That was the last Wednesday in January. I knew that it said that I was supposed to give it in writing. It says on the agreement, right there, and of course at that time I was taking Mr. Hamilton at his word that—well, I don't know exactly the dates; I can't—but during January. [102]

\* \* \*

Q. Yes. On February 12, 1960, you stated that you saw Mr. Ward's dispatch slip and that it contained a reference to certain special skills and abilities and that, you stated earlier that you verified

(Testimony of Jack L. Wood.)

the fact that Mr. Shulz was calling for someone with those skills and abilities on March 18, 1960, when you accompanied Mr. Wheeler to the job. Now, I am [105] asking you between the two dates, February 12, 1960, and March 18, 1960, did you make any attempt to find out whether Mr. Shulz was calling for someone with those particular skills?

A. It was not necessary to make an attempt because it was discussed openly in the dispatch office by Mr. Hamilton and everybody there. [106]

\* \* \*

Q. (By Mr. Grodin): Well now, I am not asking you to remember any specific dates. I am asking you to estimate how long after February 12 it was when you first heard this subject discussed in the hiring hall or had a conversation with Hamilton about it yourself.      A. (No response.)

Q. Was it three weeks or less or more?

A. It was maybe a week.

Q. Maybe a week after February 12th?

A. Yes.

Trial Examiner: And he said he discussed it from time to time between those dates, which I take to mean on more than one occasion.

Q. (By Mr. Grodin): After—Beginning with the week after February 12, you discussed it from time to time, is that correct? [107]      A. Yes.

Q. But the first discussion you participated in or overheard was approximately one week after February 12th?

(Testimony of Jack L. Wood.)

A. That is, I presume it is right. That seems to me to be about right, yes.

Trial Examiner: That seems to be the best of the witness' recollection.

Q. (By Mr. Grodin): Now, when did you first indicate on your dispatch registration that you possessed these skills and abilities?

A. I do not recall. I think it was in February I first indicated.

Q. Could it be, Mr. Wood, that you didn't indicate that until after you went out to the job with Mr. Wheeler on March 18, 1960?

A. It could have been, but it seems to me like it was in February.

Q. But you are not sure?

A. I am not sure about it, no. [108]

\* \* \*

Q. (By Mr. Grodin): When was the first conversation you had with Mr. Shulz about this job?

A. Are you referring to the job I could have possibly had?

Q. Yes.

A. I don't like to consume this time. Give me time to think a little bit, will you please?

Actually, right after one of those calls to the hall over there, when everybody was present in the office and talking about it, I talked to Mr. Shulz one day at the gate [114] to verify, to see if it really was him that called and wanted a man, because every-

(Testimony of Jack L. Wood.)

body was talking about it, you know, and I wanted to make sure it was really the truth.

Q. When was this?

A. That was before Mr. Wheeler was dispatched.

Q. How long before?

A. I don't know how long.

Q. Was it after Mr. Ward was dispatched or before?

A. It was after Mr. Ward was dispatched.

Q. And where did this conversation take place?

A. At the gate of Walsh Construction Company. It wasn't in the yard. Mr. Shulz was driving into the gate just as I drove up and I asked him at that time and he verified that he needed men, but that was all there was to it. [115]

\* \* \*

Q. (By Mr. Grodin): Did you talk to Mr. Shulz at that time to see whether there was anything further he could do about getting you to work for him there?

A. There was no use of asking Mr. Shulz to do anything else. I didn't ask him to do anything else, no. [118]

\* \* \*

Q. Did he indicate to you that he would like to have you on the job?

A. He has indicated that, yes.

Q. When was the first time he indicated that?

A. While I worked for him the first time.



(Testimony of Jack L. Wood.)

Q. I mean since then.

A. Oh, what I actually know about was, at that particular day was when he—I know that he had indicated that he wanted me on the job, yes, when he told Mr. Hamilton that I was qualified to do the work. [119]

\* \* \*

Q. (By Mr. Grodin): You indicated, Mr. Wood, that you thought the Union was out to get you. Did you ever have any conversation with anybody from the Union as to why that should be so?

A. You mean member of the Union?

Q. Any—— A. ——or official?

Q. Any official of the Union, let's say that.

A. Yes.

Q. Whom did you talk to?

A. Mr. Joe Campbell.

Q. And when did that conversation take place?

A. That took place, it must have been in December, 1958, because it was while I was out of work that time. I called [120] the hall in Sacramento and asked to talk to Joe Campbell, and at that time he asked me over the phone what local I was out of, and I told him 800. He said that was bad. He said that is not so good—I beg your pardon—and I said, "What's so bad about it?"

He said that they don't have wiremen, I believe that this is what he said, "Don't have wiremen in 800."

Q. You said that he told you that it was bad

(Testimony of Jack L. Wood.)

because members of 800 don't have the wiring experience as journeymen, is that correct?

A. It was just, he told me it was just bad because I was a member of 800; I shouldn't work in a construction local.

Q. Mr. Wood, this is a serious matter and I want to bring Mr. Campbell in to clarify any matter on which you may be uncertain.

Now is it not correct that Mr. Campbell told you it might be difficult for you to obtain work under the construction agreement because you had not had the necessary experience under that agreement, under the hiring hall agreement?

A. It was not put in that kind of wording, no. [121]

\* \* \*

Q. (By Mr. Grodin): Now, did you file an appeal with respect to the refusal of Mr. Hamilton to dispatch you to the Walsh Construction job?

A. On March the 18th I did file an appeal.

Q. And were you notified by the appeals board that the matter was under consideration?

A. I was notified by the appeals board that the matter had been acted upon and they had come to a conclusion, and they felt that I didn't—there was no merit to my complaint. [122]

\* \* \*

Trial Examiner: Now, in these conversations

(Testimony of Jack L. Wood.)

did you inquire and ask Mr. Hamilton why you were not dispatched out there?

The Witness: Yes, I have asked him why I wasn't dispatched. Of course, after this verification—after I hadn't verified, I had given up on that point because after I got the contract I knew that I hadn't verified, and so I didn't try to discuss that any more, and Mr. Ward was dispatched out, actually and truthfully, he was dispatched out ahead of me. If I had verified, I would have had a legal complaint right then and there, but I had not verified, and then after that I asked Mr. Hamilton quite frequently whether Walsh wanted any men now or not and that I had worked out there before, and so on. [124]

\* \* \*

### Redirect Examination

By Mr. Bowe:

Q. Mr. Wood, I don't want to go into any great detail in this examination but have you ever received results of the examination?

A. No. [126]

\* \* \*

## STANLEY HAMILTON

a witness, called by and on behalf of the General Counsel, having been first duly sworn, was examined and testified as follows:

Mr. Bowe: Mr. Hamilton, whom the Answer admits is an agent of Local 340 of the IBEW within the meaning of the Act, is being called under Section 43B of the Act and the alternative Section 2055 of the Code of Civil Procedure. [127]

## Direct Examination

By Mr. Bowe:

\* \* \*

Q. (By Mr. Bowe): What is your occupation, sir? A. Business Representative.

Q. Of what union? A. 340 IBEW.

Q. In the course of that occupation, what duties do you perform?

A. Policing the area, dispatching men.

Q. Policing what area?

A. Well, my area comprises the Tehama County line down to approximately Lincoln on 99-E, and then I have the west side, 99-W, which comprises Willows and Orland, Colusa, and also includes Oroville.

Q. Is this the same area that the hiring hall at Chico services?

A. Chico services also our office in Marysville.

Q. How long have you been a business representative for 340?

(Testimony of Stanley Hamilton.)

A. Since the 1st of September of this year—I beg your pardon, last year.

Q. How long have you operated the Chico hiring hall? [128]

A. Since that date.

\* \* \*

Q. Is Local 800 a sister local of 340?

A. When you refer to sister local, I don't know what you mean.

Q. Well, what is the relationship between Local 800 and Local 340?

A. Well, they are all affiliated with the IBEW; that is about the only affiliation we have. [129]

\* \* \*

Q. Explain for the difference between the railroad local and a wireman's local?

A. A railroad local is mainly concerned with the repair and maintenance of locomotives and equipment relating to railroads. However, inside wiremen—now, we have outside and inside wiremen's classifications. It is concerned mainly with industrial, commercial, residential work.

Q. Does experience as a railroad electrician under a railroad local qualify as experience under your contract?

A. Not as inside journeyman, no, sir.

Q. So that the time spent in a railroad local of IBEW would not count as experience time under the collective bargaining agreement?

A. No, sir, because we have a contract with the

(Testimony of Stanley Hamilton.)

N.E.C.A. and they are not interested in the railroad type of work.

Q. Mr. Wood registered on December 23rd, 1959, did he not?      A. I believe that is correct.

Q. You placed him in group 3, did you not?

A. Right.

Q. This was incorrect, was it not?

A. Right. [130]

\* \* \*

Q. (By Mr. Bowe): It is true, is it not, Mr. Hamilton, that at this time you were placing all 340 members in group 1 and all other applicants in the group 2 and 3 book?      A. That is false.

Q. What was the reason for putting Mr. Wood in the group 3 book?

A. He told me at the time that he was a journeyman wireman.

Q. And all journeymen wiremen are placed in the group 3 book?

A. If they are not placed in either 2 or 1.

Q. Why wasn't he placed in either 2 or 1?

A. Because he didn't have proof that he was from a—had had the experience necessary under our current agreement. If you will read the agreement, you will see they had to work under a contract with the N.E.C.A. for a period of twelve [131] months prior to the time that they registered in order to be in group 1. [132]

\* \* \*

(Testimony of Stanley Hamilton.)

Q. All right. Now thinking back, to your best recollection what information did Mr. Wood give you when he came into that hall that day?

A. He told me he was a journeyman wireman which, perhaps that is the wrong phrase, but that to us means he has passed the journeyman wireman's examination. [136]

\* \* \*

Q. Now, on February 5, 1960, you told Mr. Wood to register on the group 4 book, did you not?

A. Yes, sir.

Q. Why?

A. He hadn't brought proof in that he had these qualifications to be in group 3. [139]

Q. What qualifications had he not brought in?

A. That he was a journeyman wireman.

Q. Now, did you reach this determination to put him in group 4 yourself?      A. Yes, sir.

Q. On February 5 you decided that you would change his registration?

A. Well, he had to register because he hadn't verified his first registration; his first registration he hadn't verified. He came in—What was the date?—December 22nd, and he didn't appear again until February, the early part of February; so that slip was dead. He hadn't verified at all that time; so then I required him to make out a new verification slip. [140]

\* \* \*

(Testimony of Stanley Hamilton.)

Q. Do you ever remember discussing the fact that an examination was scheduled for January 16, 1960, with Mr. Wood?

A. I believe we did, yes.

Q. What was the discussion?

A. Oh, as to the date and the meeting, you know, where it was to be held. [141]

\* \* \*

Q. Did you dispatch any men to the Walsh Construction job during 1960? A. Yes.

Q. Who was the first man you dispatched?

A. Arnold Olds.

Q. What date? A. The 5th of February.

Q. What year? A. 1960.

Q. When did Mr. Olds register?

A. Same date.

Q. What group was Mr. Olds in? A. One.

Q. Is Mr. Olds a member of Local 340?

A. Right. [143]

\* \* \*

Q. (By Mr. Bowe): Sir, did you make a notation after the first conversation that Mr. Shulz wants a man with special skills?

A. Did I make a notation?

Q. Yes. A. No.

Q. Do you recall whether or not he did want a man with special skills? A. Yes.

Q. What were those special skills?

A. Well, DC motor repair, battery repair, lead burning.



(Testimony of Stanley Hamilton.)

Q. Do you remember what response you gave him when he asked for a man with these skills?

A. No, I couldn't tell you what I told him.

Q. Do you know why you didn't refer a man for fifteen days until you referred Arnold Olds?

A. I didn't have a man with those [146] qualifications.

Q. You had Mr. Wood.

A. At that time I didn't know Mr. Wood had those qualifications.

Q. You had Mr. Ward after January 22nd.

A. If I remember correctly, Mr. Ward didn't tell me he had these special skills.

Q. Did you know Mr. Ward was Mr. Shulz's son-in-law?

A. I found it out, but I couldn't tell you when.

Q. Do you know, to your knowledge, that Mr. Shulz—I think I am quoting you here, that Mr. Ward had worked in that shop in Oroville since he was a boy?

A. Well, like I say, I know it now but I learned it after he took the job, but I couldn't tell you when I found out about it. [147]

\* \* \*

Q. So on February 12, 1960, you referred Mr. Ward to the job?      A. That is right.

Q. And about two weeks after that, Mr. Shulz called you again and said he needed another man with the same skills, did he not?

A. I don't remember the exact date.

Trial Examiner: Well, did he call you a second

(Testimony of Stanley Hamilton.)

time and say he wanted somebody with the same skills?

The Witness: Yes.

Q. (By Mr. Bowe): This would be the third time now; he called you after Olds was rejected and now he calls you about [148] two weeks afterwards, about two weeks after Ward was sent out; how come it was that you didn't dispatch a man until almost three weeks later when you dispatched Mr. Wheeler on March 18, 1960?

A. Why didn't I send a man out?

Q. Yes, sir.

A. I had no man with qualifications.

Q. You had Jack Wood.

A. Well, Jack Wood at that time, he was signed in group 4.

Q. The group is immaterial to the special skills. You go down the list for special skills and you had no other men, is that correct?

A. I sent another man. By this time he had rejected, if I am not mistaken he had rejected Arnold Olds.

Q. And you sent out Mr. Ward?

A. And I sent out Mr. Ward.

Q. And he called you again in a few weeks?

A. Yes, under the same requisites.

Q. Right, you waited three more weeks to send out Mr. Wheeler; why didn't you send out Mr. Wood during those three weeks?

A. It appeared to me Mr. Shulz was using this special skills to bypass our referral system.

(Testimony of Stanley Hamilton.)

Q. You didn't tell this to the appeals committee when they asked you about the referral system, did you? [149]

A. I wasn't at the meeting when the appeals committee first met. They came and took a statement from me and the decision was favorable to my dispatch system; so there was no necessity of going, dragging out, dragging the thing out. I mean there was sufficient evidence that our dispatch system was in good order, so why was there a necessity of bringing up that.

Q. All right. Now, the appeals committee came to you and took a statement, asked you for your side of this story, right?

A. That is right.

Q. And you didn't mention anything about Mr. Shulz trying to circumvent the hiring procedure, did you?

A. I believe I did.

Q. You believe you told the appeals committee?

A. Yes, sir.

Q. All right. Now I don't want to trick you again. I have the minutes of that meeting.

A. Well, like I say, I honestly think I did tell them of that.

Q. You told them that the reason you didn't send Wood out was because Shulz was trying to circumvent the contract procedures?

A. That is right.

Q. Did you believe Mr. Wood did possess the skills? [150]

A. The only thing I had to go by were his own statements.

(Testimony of Stanley Hamilton.)

Q. Well, the fact that he held the job for eighteen months——

A. Well, this is similar to—you see, I am not too well acquainted up in that area. I didn't take the job until the 1st of September, and some of this knowledge didn't come to me right at the first. In fact, I had never seen Mr. Wood until he come into the office there when he signed in, so there's a lot of background that I wasn't aware of.

\* \* \*

Q. Mr. Ward was also a group 3 man, wasn't he?

A. Yes. [151]

Q. Mr. Ward was also a member of Local 340, was he not?      A. That is right.

Q. When did Mr. Wheeler register on your out-of-work list?      A. The 11th of March.

Q. What year?      A. '60.

Q. What group was he in?      A. One. [152]

\* \* \*

Q. (By Mr. Bowe): Is it true that Mr. Wheeler was a member of a wireman's local from Oregon?

A. That is true.

Q. How long had he been working out of 340?

A. I couldn't tell you definitely, but it was over a year.

Q. Did you know that he was not a member of 340 when you referred him to the job?

A. Yes. [154]

(Testimony of Stanley Hamilton.)

\* \* \*

Q. And after Mr. Wheeler was hired on March 18, 1960, about two weeks later Mr. Shulz called you again and requested another man with the same skills, did he not?

A. (Witness nods head affirmatively.)

Q. You will have to answer yes or no. He can't get a nod. A. Yes, he did.

Q. Yet, you didn't refer a man to that job for another [155] three weeks, until April 22nd, 1960, did you? A. That is right.

Q. And that man was Charles Wing, was he not?

A. That is true.

Q. And when did Mr. Wing register?

A. The 18th of March, 1960.

Mr. Bowe: Off the record.

(Discussion off the record.)

Mr. Bowe: What group was Mr. Wing in?

The Witness: One.

Q. (By Mr. Bowe): Mr. Wing was a member of Local 340, was he not? A. That is [156] right.

\* \* \*

Q. Shulz's job was openly discussed in the office, wasn't it? A. Once or twice.

Q. With various applicants sitting around?

A. (No response.)

Q. Whoever happened to be in the office?

(Testimony of Stanley Hamilton.)

A. That is right.

Q. Why didn't you send Mr. Wood out during this 20-day period?

A. Well, if I remember correctly, like I stated, I thought Mr. Shulz was using this dispatch system as a bypass for our referral system, and, if I recall, he called me again and insisted on having a man in the time there, the difference in the time that I sent one man out and Mr. Wing.

Q. Well, if you were going to send a man out, why not Mr. Wood?

A. Because Mr. Wing was in group 1.

Would it be permissible for me to give a little byline on this, I mean why it was doubtful?

Q. Why what was doubtful, sir?

A. Or why I thought Mr. Shulz was using this referral [157] procedure——

Q. Let me ask you one question first.

Did Mr. Shulz request Mr. Wood by name; yes or no?      A. Yes, he did.

Q. How many times?

A. I wouldn't state, possibly two or three.

Q. Did he also request Mr. Ward by name?

A. When he called for a man, I believe it was Mr. Shulz that informed me that Ward had these skills, so——

Q. Well, he mentioned two men by name now; one is a union member and one is not a union member. Why do you send him Ward?

(Testimony of Stanley Hamilton.)

A. I don't get what you mean by one not being a union member. They are both affiliated with the IBEW.

Q. Thank you. One being a local member and one not being a local member?

A. Why didn't I what?

Q. Why did you send Ward and not Wood?

A. When I sent Mr. Ward, I wasn't aware that Mr. Wood had these qualifications.

Q. I am saying, when you became aware that Mr. Wood had these qualifications, why didn't you send Wood out on the job; you sent Ward out on the job.

A. As I stated, I thought Mr. Shulz was trying to bypass our referral system. [158]

Q. Why send him Ward, then?

A. At that time I thought Mr. Shulz was sincere and really needed the man.

Q. When he called for a man and asked for his son-in-law by name, you thought that this was a sincere request? [159]

\* \* \*

Q. (By Mr. Bowe): McAdams was also a member of a wireman's local, of 360, was he not?

A. Of what?

Q. A wireman's local of the IBEW, was he not?

A. He belonged to the local number—

Q. No, I just want to know whether he was a member of a wireman's local of the IBEW.

A. That is true, yes.

(Testimony of Stanley Hamilton.)

Q. And if I asked you what the reason would be that you didn't send anyone out between Mr. Wing and Mr. McAdams, the answer would be the same as you answered before?

A. That is right.

Q. And the answer would be the same as to why you didn't send Mr. Wood out? [160]

Trial Examiner: Being what?

Q. (By Mr. Bowe): Why didn't you send Mr. Wood out between the time Mr. Wing was rejected and the time you sent out Mr. McAdams?

A. In my own mind I still think Mr. Wing can do the work and by Mr. Shulz's letting him go only affirmed my belief that he was sincerely trying to get one man and one man only.

Q. And who was that man?

A. Mr. Wood. [161]

\* \* \*

Q. (By Mr. Bowe): It is true, is it not, Mr. Hamilton, that you have on two or three occasions tried to refer Mr. Wood back to the Local 800 of the railroad, haven't you?

A. I recall once. [164]

Q. What did you tell him at this time?

A. He came in and told me that he needed work real bad, and I told him there was an opening at his home local if he cared to go back there.

I also told him if he cared to come down to Marysville, which I have a different set of books on, if he cared to come down and sign in at Marys-



(Testimony of Stanley Hamilton.)

ville, I thought he could get out there sooner than he could in Chico, and he told me he was coming down there two days hence, but he never made an appearance.

Q. Is Chico closer to his home than Marysville?

A. Oh, there might be about six miles difference.

Q. Chico being six miles closer?      A. Yes.

\* \* \*

Q. All these five dispatches were out of order, were they [165] not? They weren't special skill men; they weren't at the top of the list, were they?

A. That is correct.

Q. Actually, with your set of books, you couldn't go back and tell who was as the top of the list anyway, could you?      A. Not exactly, no. [166]

\* \* \*

### WILLIAM J. CAMPBELL

was called as a witness by and on behalf of the Union, and, having been first duly sworn, was examined and testified as follows:

#### Direct Examination

By Mr. Grodin:

Q. What is your position with the Union, Mr. Campbell?

Trial Examiner: What is his full name?

Mr. Grodin: I beg your pardon.

Q. (By Mr. Grodin): State your full name for the record.      A. William J. Campbell.

Q. What is your position with the Union?

(Testimony of William J. Campbell.)

A. Business manager of the Union.

Q. Is that the top executive position in the Union? A. Yes. [173]

Q. When was your present referral procedure instituted?

A. Some time in late 1958, I believe, latter part of '58.

Q. As business manager, what are your duties and responsibilities with respect to the referral system?

A. I am the officer responsible for all referrals. The representatives are appointed by myself and they refer members under my general direction, workmen for the trade.

\* \* \*

Q. (By Mr. Grodin): In that connection, have you given any instructions to the business agents with respect to the operation of the referral system?

A. Yes.

Q. What instructions have you given?

A. Well, I have instructed them to follow closely the Article 9 which is our referral plan in referring people to jobs.

Q. Have you given them any instructions as to whether or not they should give preference to persons on the basis of union membership? [174]

\* \* \*

A. Only that I read to them that part of the referral and tell them to abide by it. It says that no part of this shall be dependent on the man's membership.

(Testimony of William J. Campbell.)

Q. Have you given the business representatives any instructions with respect to whether or not they should consult with you in the operation of the referral system?

A. Well, I have talked to all of these men personally. We have gone over this together, and I have told them that if there is anything that comes up that they are in doubt about to get ahold of me and I will decide what to do. [175]

Q. When did you first learn that Mr. Shulz of Walsh Construction Company wanted a man for the shop in Oroville?

A. Oh, I can't be sure about that. It must have been in the first part of the year somewhere, around the first part of the year.

Q. How did you learn about it?

A. Mr. Schulz called me.

Q. What did he say?

A. Well, he said that—he said that Mr. Ward who had worked for them and had previously worked for them was back in the district now and he would like to have him go back to work for him.

Q. And what did you say?

A. I told him that Mr. Ward was in group 4 and that we couldn't, according to our referral system, refer him out until all the other groups had had their chance at this job.

Q. Did he say anything else?

A. Well, in our discussion, it was brought up that he had to have men with special skill or a man with special skill and he mentioned lead burning

(Testimony of William J. Campbell.)

and motor work. That is usually associated with that kind of a contract.

Q. What did you say?

A. Well, I told him then to call up Mr. Hamilton and describe the skill that he needed to Hamilton and Hamilton would try to fill the request. [176]

\* \* \*

Q. What was the next conversation you had respecting Schulz's call for men? [177]

A. Well, the next conversation I had with Mr. Schulz, I believe it was after this discussion about Ward. He called and wanted to put his son to work who has no classification whatever, and, at that time I told Mr. Schulz that we couldn't clear his son for the job at all, that if he had room for a shop boy or somebody to clean up around the place and general labor of that nature that we had no contract that covered that particular phase of the work.

\* \* \*

Q. Now, after this conversation with Hamilton about Ward, did you have any further conversation with Hamilton in which Mr. Wood was mentioned?

A. Yes. Hamilton called me, and I don't know the date, some time after this, after our conversation about the son of Mr. Walsh and said that Mr. Schulz was calling for a man and, again, asked for the identical skills that he had asked for in the first

(Testimony of William J. Campbell.)

place for the first man and that he said that he was—he got the information some way or the impression some way that he was after Mr. Wood.

Q. Hamilton told you that he got the information some way——

A. Yes.

Q. ——that Schulz was after Mr. Wood? [178]

A. Yes.

Q. What did you say?

A. Well, I told Mr. Hamilton that we had dispatched one man with these special skills and that I didn't believe it was a bona fide request for a mechanic, that there was something more than just a requirement for special skills, that the skills that had been described to me previously could well be covered by this first man that we had sent them, and that centered mainly around lead burning and work on traction motors, I believe.

Q. You did not believe that Schulz required another man to do that kind of work?

A. That specialized skill, no.

Q. Did you give Mr. Hamilton any instructions as to whether or not he should dispatch Wood to the job?

A. I told him he should not dispatch Wood.

Q. Did you have any further conversations with either Mr. Hamilton or Mr. Schulz in which Mr. Wood was discussed?

A. Yes. I went to Chico, that area, because I had been getting reports that Mr. Schulz's son was doing work that was covered by our agreement and we had agreed in our previous conversation that

(Testimony of William J. Campbell.)

the son wouldn't do any of this work, and I kept getting reports that he was doing bench work and work that was strictly of an electrical nature, and I went up to Chico and Mr. Hamilton said, "Let's go over to Walsh Construction and see these specialized jobs and see what this boy is doing over there," and we [179] went over to there.

Q. Do you recall when this was?

A. No. That must have been, oh, perhaps two months after my first conversation with Mr. Walsh—excuse me—

Q. Do you recall whether Mr. Wheeler was on the job at that time?

A. Yes. Mr. Wheeler was on the job at that time.

Q. And you say sometime during this visit to Chico you did discuss Mr. Wood? A. Yes.

Q. Where did this conversation take place?

A. Oh, it took place in Mr. Schulz's office, mainly.

Q. Approximately what time of the day?

A. Well, it was in the morning.

Q. And who was present?

A. Mr. Hamilton, Mr. Schulz and myself. I believe that was all that were present.

Q. What was said concerning Mr. Wood?

A. Well, of course, I maintained that Mr. Schulz was not after that particular skill, that he was after the man.

Q. Well, try to think back and start us in at the beginning of the conversation. At some point along the line, you went up there, you say, to investigate

(Testimony of William J. Campbell.)

the charges that Schulz's son was performing work covered by your agreement but that at some point along the line, you began discussing Schulz's request for [180] men. Now, would you think back as best you can and tell us what was said in that connection?

A. Well, the only thing I can say about that that there was a lot of general discussion about the trade in general and Mr. Schulz had said that he had not asked for Mr. Wood by name, and, although again the impression was there that the pressure was always there to get Mr. Wood on this job.

\* \* \*

Q. Both you and Mr. Schulz talked about Wood?

A. Yes.

Q. What was said about Mr. Wood?

A. Well, I remember that I reiterated that I couldn't send Mr. Wood in violation of our agreement, and I went on to tell him that he had asked for one man out of classification on this special skills business and that we had sent the man out in all [181] honesty and that I knew the man. I knew that he had worked for Mr. Schulz for many years, and I knew that he was capable of doing this work and, at the same time, I said that as far as I can see the job that you have out there—that job doesn't require more than one lead burner. He could do all the lead burning your company has forever. There never would come a time when he would need more

(Testimony of William J. Campbell.)

than one of that particular skill, and I maintained that the rest of the skills were common to all electricians.

Q. Didn't you, at that time, make any statement to Mr. Schulz to the effect that you would try to get him somebody who was capable of performing lead burning work and, in addition, possess the necessary all around skills?

A. I told him that I was sure that we had plenty of group 1 men that had these skills and we would make efforts to send him some of these people.

Q. Did you make such an effort after that conversation?

A. Yes. I believe Mr. Hamilton dispatched—I don't know how many—several men after that including one who I was aware of that had these particular skills, especially lead burning and motor work and had spent his life at it.

Q. Who was that?

A. That was a man by the name of McAdams.

Q. What did you know about McAdams' skills and ability?

A. Well, that he had been an electrician for many years and [182] that most of his training had been in the shop where they handled this hoisting equipment, battery run type of equipment that they use normally in all warehousing and traction jobs of that nature. [183]

\* \* \*

Q. (By Mr. Grodin): Now, Mr. Campbell, to



(Testimony of William J. Campbell.)

get back to the conversation that you overheard between Mr. McAdams and Mr. Christianson.

I hope I didn't misstate it. Would you please state what you overheard?

A. Well, I overheard Mr. McAdams mention Walsh Construction Company and knowing that this—in the back of my mind this thing had been going around, I asked Mr. Christianson to send McAdams in. I wanted to talk to him and I quizzed Mr. McAdams again very thoroughly on what his background had been and his time in the area and so forth. [189]

Q. What did he tell you in that connection?

A. Well, he told me that he had been working in Ohio, previously, and for many years he had been at this trade repairing motors of that nature and batteries and said he had been repairing batteries ever since he was a young lad—I imagine Mr. McAdams is a man of 55—had many years experience at that type of work.

Q. Did you discuss what happened when he went to report for work?           A. Yes.

Q. What did he tell you?

A. He told me that Mr. Shulz had asked him a lot of questions and that he got along with those questions comfortably and then he asked him a question about a controller that he didn't understand and he said that Mr. Shulz didn't go into it very thoroughly.

He passed it on and then had quite a lot of further conversation, and he said, finally, Mr. Shulz

(Testimony of William J. Campbell.)

asked him if he had ever worked in a tunnel and he said no and he said then that Mr. Shulz said that he wouldn't do.

Q. Was there any tunnel work involved at the shop?           A. No.

Q. Mr. Campbell?

A. No. The shop is set out miles from any tunnel. It is a headquarter shop. [190]

Q. Was there anything mentioned about Mr. Wood in your conversation with Mr. McAdams?

A. Yes. Mr. McAdams said that he kept mentioning somebody. He said he didn't know who he was.

Q. That Mr. Shulz kept mentioning somebody?

A. Yes, and I asked Mr. McAdams if it was "Wood," and he said, "Yes, that was the name."

Q. Did he say in what connection he kept mentioning this name?

A. No, except that he said that it seemed that that was the man he wanted for the job.

Q. From the outset, then, Mr. Hamilton was following your instructions when he refused to send Mr. Wood out to the job, is that correct?

A. Yes.

Q. And he is presently following your instructions in refusing to send Wood to the job?

A. Yes.

Q. Why will you not permit him to send Wood to the job?

A. Because I am convinced in my own mind

(Testimony of William J. Campbell.)

that this is a subterfuge that Walsh Construction Company is trying to evade our agreement.

Q. Now, was it not the case that Walsh Construction Company was attempting to evade the agreement when Mr. Shulz asked that you clear Mr. Ward for the job?

A. I don't know whether he was trying to evade it or not. I [191] know that there was a very close relationship there between the two, but, notwithstanding that, the man had the qualifications without a doubt.

\* \* \*

Q. (By Mr. Grodin): Since you authorized Mr. Hamilton to dispatch Ward to the job, upon Mr. Shulz's suggestion that he, Ward, possessed the necessary skills and abilities, why didn't you do the same thing with Wood? Why didn't you authorize Mr. Hamilton to refer Wood to the job, too?

A. Well, simply for this reason: Walsh Construction, among many others, has been working in that area on tunnel work for many years, and I would estimate that 50 per cent of the electricians in that area at some time or another have worked on this type of work that they are directly connected with, and I could not believe that they had a right to ask for these—this list of specialized skills repeatedly over and over because these skills that he required—and it was mainly lead burning—that we do not have members—we may have—but we couldn't readily get our fingers on them in group

(Testimony of William J. Campbell.)

1. There are many, [192] many electricians who have made their living on these tunnels up there for years and many of them are in group 1, and I just could not believe that that was a bona fide request for a special skill under our referral system.

Q. When Wheeler was sent to the job, were you aware that Wheeler was not a member of Local Union No. 340?

A. No, I was not aware Wheeler was sent to the job, exactly.

Q. Did you make any inquiries of Mr. Hamilton of whether the people he was sending to the job were members of Local 340 or not?

A. No, I don't. I mean, that isn't—that is up to them to decide who is proper to go out in the proper place unless they run into trouble.

Q. Did you have any conversation at all with Mr. Hamilton as to whether the people you were sending out to the work were members of 340 or not?      A. No.

Q. Are you now aware that Mr. McAdams is not a member of Local 340?

A. Yes, I am aware now.

Q. When did you first become aware of that?

A. I can't honestly say—oh, yes, it must have been during my conversation with Mr. McAdams because during our conversation I believe I inquired into his background, the local he worked out of and so forth. [193]

(Testimony of William J. Campbell.)

Cross-Examination

By Mr. Bowe: [194]

\* \* \*

Q. Did you hear about Mr. Wood's trouble with his examination?

A. I never knew he had any trouble. I had heard that Mr. Wood had gone in and taken the examination and he was not eligible. I know of that incident. [195]

\* \* \*

Q. Did Mr. Hamilton ever tell you that Mr. Wood offered to withdraw the charges if you would send him out to the Schulz job?      A. Yes.

Q. What did you tell Mr. Hamilton?

A. I said, "We don't buy that sort of thing." I told him, I said, "We cannot buy that sort of a proposition. It is not honest." [202]

\* \* \*

STANLEY HAMILTON

a witness called by and on behalf of the Union, having been previously duly sworn, was examined and testified further as follows:

\* \* \*

Direct Examination

By Mr. Grodin:

Q. Mr. Hamilton, have the referral procedure rules been posted at the Chico hiring hall?

A. Yes, sir.

(Testimony of Stanley Hamilton.)

Q. For how long have they been posted there?

A. There were two copies in the office when I took the job over the first of September of last year. How long prior to that, [207] I couldn't say.

Q. Have they been there ever since?

A. Yes, sir. [208]

\* \* \*

Q. Of the men that you sent out to Mr. Schulz, which of them were not members of Local 340?

A. McAdams was not a member nor was Wheeler.

Q. Did you know at the time that you dispatched them that they were not members?

A. That's right. [210]

\* \* \*

Q. (By Mr. Grodin): Well, let me ask you this, Mr. Hamilton: Is it your practice in dispatching persons to jobs to make any distinction on the basis of whether the person is a member of the construction local or a member of the railroad local?

A. Oh, definitely.

Q. In what respect?

A. Ours is strictly what we call an inside local, inside and linemen local, and, if we refer someone that isn't a member of our branch of the labor market, they are out of classification. [211]

\* \* \*

(Testimony of Stanley Hamilton.)

Cross-Examination

By Mr. Bowe: [218]

\* \* \*

Q. Now, there has been testimony that there was pressure brought to bear on you to send out Wood and you received an impression that Wood was wanted.

Give us your best recollection on what Mr. Schulz said to you about Mr. Wood.

A. You are speaking about the first conversation?

Q. I would like every reference to Mr. Wood. Start with the first.

A. Well, that is a little hard to recall. I don't remember—at one time there was a request to the effect, "How about letting me get that man off your back?" He has called for him by name and at other times when he called he didn't call for him by name, but there has been so much controversy over it that, in time, the name wasn't even necessary to mention. [223]

\* \* \*

RUDOLPH C. SCHULZ

was called as a witness by and on behalf of the Union and, having been previously duly sworn, was examined and testified further as follows: [228]

\* \* \*

(Testimony of Rudolph C. Schulz.)

Direct Examination

By Mr. Grodin:

\* \* \*

Q. Now, did you, in conversations with Mr. Hamilton, mention Mr. Wood? A. I did.

Q. When was the first time you mentioned Mr. Wood?

A. Well, I wouldn't be sure. I couldn't say exactly when it was.

Q. You don't know? A. No.

Q. Was it some time after Mr. Ward came out to the job? A. Possibly.

Q. Now, when you mentioned Mr. Wood to Mr. Hamilton, what did you say?

A. Well, I made a request for a man with certain skills and he said he would find me someone. I said, "Well, you have a man up there that has those special skills who has worked for Walsh Construction Company for a year or longer. Why not send him?"

Q. And were you aware by that time of the provision in the contract which said that you had the right to call for men of special skills?

A. Yes.

Q. You were aware of that by that time?

A. Yes.

Q. By the time you first mentioned Wood to Mr. Hamilton you [234] were aware of that contract?



(Testimony of Rudolph C. Schulz.)

A. Well, I wouldn't say I was aware of it when I first mentioned Wood or not.

Q. How did you become aware of that contract provision?

A. Well, we got copies of the agreement along at that time. I don't know the exact date when I received them, but it was about that time.

Q. About when?

A. Oh, in the early part of January.

Q. In the early part of January you received copies of the agreement?

A. I believe so. I wouldn't be sure.

Q. So, you became familiar with the terms of the referral procedure at that time, did you?

A. Well, not completely, no. [235]

\* \* \*

Q. Now, what has happened to Mr. Ward?

A. (No response.)

Q. Where is he working?

A. Mr. Ward is foreman on a job in Placerville.

Q. When did he start there?

A. Oh, I don't know, about three weeks ago.

Q. And Mr. Wheeler?

A. He is also a foreman on the job down there.

Q. And when did he start there?

A. Oh, three or four weeks ago.

Q. Why aren't they working in the shop any longer?

(Testimony of Rudolph C. Schulz.)

A. Because they are required down there on a job as supervisors.

Q. Do you need anybody on the job?

A. Definitely.

Q. Why didn't you have Mr. Wheeler and Mr. Ward stay there?

A. Because they are needed more necessarily on the job to supervise it rather than to be in the shop, and the job that they are in requires the same skills for the duration of that job. They are going to maintain these locomotives and batteries [238] and I also need one man on each shift, at least one man on each shift for the duration of that job with these special skills.

Q. And where is your son working?

A. He is working in a shop at the present time.

Q. When Mr. Wood worked for you before, did he work as a foreman at all?      A. He did.

\* \* \*

Q. (By Mr. Grodin): You say that you need a man in the shop now, is that correct?

A. That's right.

Q. But you transferred Wheeler and Ward out of there?      A. Yes.

Q. If you hired a man in the shop now, how long would he [239] stay there?

A. That is a hard thing to say. He might be there 30 days; he might be there three years.

Q. He might be there only one week, is that right?      A. Possibly.

(Testimony of Rudolph C. Schulz.)

Q. And if he weren't there, what would he be doing?

A. Well, he might have to go out on a job somewhere or he might be discharged for lack of work, but, the way it is right now, I can see possibly 30 days' work in the shop. [240]

\* \* \*

Q. Now, would you describe the work that Mr. Wheeler is doing now?

A. Well, Mr. Wheeler is foreman and he is in charge of the tunnel operation which requires the installation of various temporary power cables, maintain various lights, installation of temporary lines in the tunnel, such as lighting lines and chuting lines, general maintenance.

Q. For that work, something in addition to the skills on the battery work is required, is it not?

A. At the particular job he is now in, there aren't any batteries.

Q. No batteries?

A. No, not this particular job.

Q. How about Mr. Ward? What is he doing?

A. Mr. Ward is setting up the job.

Q. What does that entail?

A. Well, it entails hooking up transformers and hooking up [241] battery charges and putting batteries into service and setting up the complete job.

Q. Are these jobs that Mr. Wheeler and Mr. Ward are performing, are those jobs ones that are

(Testimony of Stanley Hamilton.)

normally filled by the dispatch system in Sacramento?

A. Well, the jobs that they have—I fill them with men that I have trained to do that type of work and to supervise this operation. [242]

\* \* \*

WILLIAM J. CAMPBELL

was recalled as a witness by and on behalf of the Union and, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Grodin:

Q. Mr. Campbell, are you familiar with the type of work being performed by employees of the Walsh Construction Company at the tunnel job?

A. I am familiar by hearsay is all at this particular job. [244]

Q. When Mr. Schulz said that he calls the union and asks for men with experience on tunnel work, what do you do? Do you have men with that sort of experience in your local?      A. Yes.

Q. About how many men do you have in your local with that sort of experience?

A. Oh, I would say in our local up and down the area in the last years, there has probably been 300 men that have worked in the tunnels.

Q. When you send a man out on that sort of tunnel job, do you send a man who had had particular experience on batteries and lead burners?

(Testimony of William J. Campbell.)

A. Not necessarily.

Q. That is not considered normally a part of tunnel work? A. It is in some cases.

Q. But it is not—if a man asks for a tunnel job, do you send a man with special skills, as lead burner and batter man?

A. No, that is a minority of the jobs that tunnels require. Any person who can handle lead—well, that is a small amount of the work.

Q. Are you aware that Mr. Wheeler and Mr. Ward are now—have now left the job and are working at the tunnel?

A. I am aware now, yes.

Q. From the point of view of the union, would there be anything wrong with Mr. Schulz hiring Mr. Wood and putting him in [245] the shop for a week and then transferring him over to the tunnel?

A. Well, there would be, if he had—anyone of these people that he requires in the shop and that go out of turn—in other words, get an advantage in seniority on the job and, if they were called for shop work to do a special kind of shop work and, then, they were transferred to ordinary work, it would be very unfair.

Q. Who would it be unfair to?

A. It would be unfair to the tunnel man who had, perhaps, been waiting there unemployed and in a higher classification groupwise than the man that was sent out.

(Testimony of William J. Campbell.)

Q. Now, does that have anything to do with your refusal to send Wood out to Mr. Schulz?

A. Well, yes. I feel that it does definitely have something to do with it.

Q. What does it have to do with it?

A. Well, I feel that he was sent these special men, and he got them on the request—lifted them out of their place on the normal referral on a request for special high skills in one small phase of the work and now he has transferred them on to work that is a common type of work, not—it requires knowledge and skill but not of too high quality.

Q. Now, we were discussing with Mr. Hamilton the relationship between a construction local and a railroad local. Would you [246] clarify for us whether you make any distinction between members of a construction local and members of a railroad local so far as your referral system is concerned?

A. Only in that it indicates the background of their skills.

Q. And what do you mean by that?

A. Well, construction people have to be skilled in the safety rules that goes into these things. They have to be skilled in the handling of conduit, pipe, wire and as they relate to the jobs and as they relate to the laws of installation, whereas a railroad local, I believe, is outside the laws of the normal state safety laws and so forth and their work consists of managing the right of way. It is similar in some circumstances but, in general, they have a

(Testimony of William J. Campbell.)

different type of construction that is not related in general to that type of laws.

Q. Do you regard experience under a railroad local's contract as experience which qualifies a person for group 1 status under your contract?

A. No, we don't.

Q. Why not?

A. Well, most of our group 1 employees or applicants, rather, have, at some time in their past, put in four years at the trade, at the construction trade, and it is very broad because it is usually contract work and sometimes this contract will take in a maintenance type of work, but, in general, it is construction work. This is against the experience of a railroad [247] employee who may have experience which is valuable in the field of electrical knowledge but it in no way prepares him to go out and be dispatched almost on any job and many—a large proportion of the group 1 people have taken a formal apprenticeship training, have had formal apprenticeship training. [248]

\* \* \*

Trial Examiner: Well, the thing about it, as I see it, you don't undertake to supply foremen? You undertake to supply journeymen, don't you?

The Witness: We don't undertake to tell the contractor, "You make this man a foreman." We undertake to furnish men that have experience as a foreman and who are thoroughly capable of being a foreman, but he might want to make a man a

(Testimony of William J. Campbell.)

foreman [255] who has never been a foreman on a job before and we have no objection to it.

Mr. Grodin: I have nothing further.

Trial Examiner: Well, as I understand your last question, then, you have no objection to the fact that he has these two men in question as foremen over the tunnel now, is that right?

The Witness: I have no objection in principle.

I feel that the whole thing was used as a subterfuge to hand pick these men. That is my feeling on the thing, my honest feeling, and I have an objection to the whole scheme.

Q. (By Mr. Bowe): When did you get this feeling, sir? Right at the beginning?

A. Well, I don't know how far I should go into this, but, yes, I did. I had the feeling when he asked for Mr. Ward. I didn't feel that Mr. Ward was the only man that could have filled that job by any means. I believe there is many other men in a higher classification that could have filled that job.

Q. How do you explain Mr. Wheeler?

A. How do I explain Mr. Wheeler?

Q. Yes.

A. I know nothing about Mr. Wheeler. I know he was sent out and he was satisfactory. [256]



ROBERT D. JEWELL

was called as a witness by and on behalf of the Union, and having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodin:

Q. Would you state your name for the record?

A. Robert Jewell.

Q. What is your occupation?

A. Electrical contractor.

Q. Do you hold any position with the National Electrical Contractors Association?

A. I am president of the local chapter in Sacramento.

Q. Did you hold any position with the Appeals Board of the NECA Local 340 referral system?

A. I was chairman of the Appeals Board.

Q. For what period were you chairman?

A. Oh, from the time it was first conceived until a month ago.

Q. And it was first conceived with the advent of the new referral system which Mr. Campbell testified was some time in [258] the latter part of 1958, is that right?

A. I believe it was, yes.

Q. How many other members of the Appeal Board are there?

A. There is one from the employee group and one public member.

Q. How were you chosen?

(Testimony of Robert D. Jewell.)

A. I was appointed by the president of the NECA at that time.

Q. Do you know how the union member was chosen?      A. No, sir.

Q. How was the public member chosen?

A. The public member was chosen by the two members of the Appeal Board.

Q. What is the union member's name?

A. Al Romitti.

Q. And the public member's name?

A. Father Kenney.

Q. Did you as a member of the Appeals Board have occasion to sit on an appeal by Mr. Wood from decision or decisions of the union with respect to his referral?      A. Yes, sir.

Q. When was your first contact with Mr. Wood's appeal?

A. The date I couldn't say exactly. I believe it was in January some time, the first appeal that was received, January or February.

Q. Would it refresh your memory to show you the letters of the Appeal Board and the minutes kept by the Appeal Board? [259]

A. Yes, sir.

Mr. Grodin: You have a copy, don't you?

Mr. Bowe: Yes.

A. February 24th is the first meeting that was called in regard to Jack Wood.

Q. (By Mr. Grodin): And did he make his complaint to the Appeal Board that you heard at that time?      A. Yes.

(Testimony of Robert D. Jewell.)

Q. What was the nature of his complaint?

A. I believe, at that time, that that appeal was in regard to his group classification.

Q. He claimed that he should have been in group 1 rather than group 4?

A. Yes, sir.

Q. Did you have a hearing?

A. Yes, sir.

Q. And what did you determine as a board as a result of that hearing?

A. Well, the decision was that he did not fulfill the requirements of Article 9 of the agreement.

Q. Was that the end of that matter or was there a further hearing?

A. We recessed to give him sufficient time to obtain further proof that he at that time claimed he could get.

Q. Further proof of what? [260]

A. Of his—the types of work that he had performed and that type of thing.

Q. Was that in order to satisfy the experience requirements of group 1?

A. Yes, sir.

Q. And did you make a determination as a result of that further hearing?

A. Yes, sir. He came in and stated that he wasn't able to obtain any further proof and, at that time, there was no use in going on with the appeal.

Q. Now, did Mr. Wood file any further appeals with you?

A. Yes, sir; he did.

Q. When was that?

A. Well, the date I am not exactly sure of. I

(Testimony of Robert D. Jewell.)

believe it was in March. I don't know whether it is in here or not.

Q. May I call your attention to the minutes of the appeals committee meeting of April 5th in which it referred to an appeal of March 18th?

A. March 18th, yes.

Q. What did Mr. Wood complain about in that appeal?

A. He complained of being discriminated against in not being referred to a job.

Q. And did the Appeals Board make an investigation of that complaint?

A. Yes, sir, we did. [261]

Q. What did you do?

A. Father Kenney and Mr. Romitti and myself made a trip to Yuba City to review the referral books in the Yuba City office.

Q. And did you talk with anybody in the course of that investigation?

A. With Mr. Hamilton.

Q. Did you reach any conclusions?

A. Yes, sir; we did. We couldn't find in the referral where he had been discriminated against in being referred for work.

Q. This was in connection with the Walsh Construction Company and Schulz's request from that, is that right?      A. Yes.

Q. Upon what facts did you base your conclusion that he had not been discriminated against?

A. On the books that we reviewed at that time, on the referral slip. [262]

(Testimony of Robert D. Jewell.)

\* \* \*

Mr. Bowe: May we have a stipulation that that is an accurate copy? I would like to later use it.

Mr. Grodin: An accurate copy of the minutes?

Mr. Bowe: Yes.

Mr. Grodin: Yes.

Trial Examiner: It is so stipulated that the one he is looking at is an accurate copy of the minutes and that is of what date?

Mr. Bowe: April 5th, 1960.

Trial Examiner: Okay. It is so stipulated.

Mr. Grodin: You understand I am not stipulating to everything contained here because I don't know whether these minutes reflect everything that transpired, but these were the minutes that were kept. [263]

Mr. Bowe: May I offer them in evidence at this time as General Counsel's No. 6?

Trial Examiner: Well, there is quite a sheath of documents that the witness has here. I think we ought to have it pinpointed here.

Mr. Grodin: It is just three pages, these minutes.

Trial Examiner: If there is no objection, the document is received in evidence and marked General Counsel's Exhibit No. 6.

(Whereupon, the document above referred to was marked General Counsel's Exhibit No. 6 for identification and received in evidence.)

(Testimony of Robert D. Jewell.)

GENERAL COUNSEL'S EXHIBIT No. 6

April 5, 1960.

925 Marcia St., Yuba City, Cal.

Appeals Hearing.

Appeal, March 18, 1960.

Appeal of Jack L. Wood.

Jewell: Read appeal of Jack L. Wood, dated March 18, 1960.

Hamilton: I dispatched the son-in-law of Shultz, Ward, in Grp. 4. Shultz kept asking for Wood. I have sent journeymen to all contractors.

Jewell: Have you sent any other man to the job?

Hamilton: Yes, Wheeler, who is in Grp. 1.

Romitti: Did Shultz want to accept any other man with the qualifications?

Hamilton: He did not want any other man but Wood.

Romitti: Has Shultz called for any men since the first time?

Hamilton: No, he has not.

Jewell: You could have obtained proof from Sacramento on Wood's status.

Hamilton: He shall show me proof of his status as in Article IX.

Father Kenney-Romitti: The burden of proof lies with Wood.

Romitti: He should have been put under temporary employee status at the beginning because he had no proof as stated under Article IX.

(Testimony of Robert D. Jewell.)

Jewell: Where was Wood dispatched from first?

Hamilton: I do not know.

Jewell: Why does he have to show proof since he had worked out of No. 340 before?

Hamilton: Because Article IX says he shall show me proof. I did not know Wood before then.

Father Kenney: Article IX states that Wood shall show proof himself. Hamilton, did you have men in Grp. 1?

Hamilton: Yes, but Shultz would not take anyone else.

Romitti: There was no referral procedure during Wood's 30 months' experience. Also Hamilton was not Business Agent at that time. Wood did not show clearance slips prior obtained as under Article IX. It seems Hamilton did not know of proof of experience before.

Romitti: Did you send Shultz a man when asked? Did he not state for a man by name and he would not accept any other man but Wood?

Hamilton: No, because he did not want any other man, period. Shultz said to send Wood so he would be off my back. Not only work which he has to do shall be lead burning, but also conduit work and etc., through construction, which I know he has no experience. I was not aware he had worked out of No. 340 before.

Jewell: I agree with you but he has done some work out of No. 340 and you should have checked.

Hamilton: The burden lies with him to show proof.

(Testimony of Robert D. Jewell.)

Romitti: Article IX states Wood shall show proof of qualifications of such experience and Business Agent's knowledge of same if known shall be taken under consideration.

Jewell: But he has worked out of No. 340 30 months prior to Article IX.

Father Kenney: It seems proof was not given and under Article IX that shall be done.

Hearing adjourned at 2:30 p.m.

A. E. ROMITTI,  
Sec.;

R. JEWELL,  
Chair.;

FATHER KENNEY,  
HAMILTON,  
Bus. Agent,  
Appeals Committee.

Received in evidence July 6, 1960.

---

Mr. Grodin: I intend to ask the witness a question or two about what transpired.

Q. (By Mr. Grodin): Have the minutes refreshed your recollection as to whether Mr. Hamilton said anything in the course of that meeting with respect to the union's reason for refusing to dispatch Wood to the job?

A. Well, Hamilton did state that he had men in group 1 that were available for work but Schulz would not take anyone else but Wood.



(Testimony of Robert D. Jewell.)

Q. Did he tell you whether or not the union felt that Schulz was trying to by-pass the referral system?

A. Well, I don't know if he put it in those exact words. He did say that Schulz called and asked for Wood by name and, at [264] that time, he could not refer Wood because he had other men in group 1 that were available for work.

Q. Now, on the basis of your investigation, you concluded that there had been no discrimination, is that correct?      A. Yes.

Q. Was that an unanimous opinion of the Appeals Board?      A. Yes.

Q. Did you notify Mr. Wood of that conclusion?      A. Yes, sir.

Q. Did Mr. Wood make any attempt to have any further hearing or present any further evidence in the matter?      A. No, sir; he did not.

Mr. Grodin: I have no other questions.

Mr. Bowe: At this time, I would like to mark the letter to Mr. Wood giving him the results of this decision as General Counsel's No. 7.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 7 for identification.) [265]

\* \* \*

Trial Examiner: The document is marked as General Counsel's Exhibit No. 7 and received in evidence.

(Testimony of Robert D. Jewell.)

(The document heretofore marked General Counsel's Exhibit No. 7 for identification was received in evidence.)

---

GENERAL COUNSEL'S EXHIBIT No. 7

April 7, 1960.

5300 Elvas Ave., Sacramento, Calif.

In re Complaint of:

Jack L. Wood,  
103 Worthy Ave.,  
Oroville, Calif.

On receipt of your complaint dated March 18, 1960, the Appeals Committee proceeded to examine your case with all possible expediency.

The Appeals Committee, on April 5, 1960, conducted a meeting in Yuba City, at which time all dispatch books of Chico were thoroughly examined and B. A. Hamilton was questioned about same.

The Appeals Committee after much deliberation feels the complainant has been referred from Group 4 without discrimination. The Appeals Committee also concludes to deny your appeal.

Yours very truly,

/s/ ALBERT E. ROMITTI,  
Appeals Committee.

Received in evidence July 6, 1960.

(Testimony of Robert D. Jewell.)

Cross-Examination

By Mr. Bowe: [266]

\* \* \*

Trial Examiner: General Counsel's Exhibit No. 8 is received in evidence, being this letter of the referral procedure complaint of Jack L. Wood, dated March 18th, 1960.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 8 for identification and received in [270] evidence.)

---

GENERAL COUNSEL'S EXHIBIT No. 8

Referral Procedure Complaint

1. Name of Complainant (please print): Jack L. Wood.

2. Date and time of the questioned dispatch: March 18, 1960, 9:20 a.m. P.S.T.

(Month, day, year, time of day.)

3. On what grounds is the dispatch regarded as improper? (State fully. Your attention is called to the Rules on Appeal, particularly Sections 7 and 9. In the event the space is inadequate, continue on a blank sheet and attach to this sheet.)

Business Manager S. H. Hamilton referred Mr. Jack Wheeler on March 18th at 9:20 a.m. to Walsh

(Testimony of Robert D. Jewell.)

Const. Co. of Oroville, Cal. Mr. Wheeler registered his name on the books at Chico, Calif., Friday, March 4, 1960.

Mr. Schultz, Electrical Supt., for Walsh Const. Company, tried unsuccessfully for two weeks and six days, prior to March 4, 1960 (the date of Mr. Wheeler's registration), to hire a man possessing special skills, defined as welder, lead burner, D.C. equipment repairman, and battery repairman.

Mr. Schultz notified Mr. Hamilton that I, Jack L. Wood (complainant), did possess the skills required and had successfully performed such skills when previously employed by his company. This notification to Mr. Hamilton was made on Feb. 12, 1960. Mr. Hamilton, business manager, would not give me, Jack L. Wood, clearance for this job.

The above incident is a clear-cut violation of Art. IX, Section 4c, paragraphs 2 and 3, of the referral procedure.

I, Jack L. Wood, am the target of discrimination by the business managers of L.U. 340 I.B.E.W. I wish to be reimbursed by said responsible parties at the rate of \$4.28 per hour, 40 hrs. per week, and five days' subsistence pay at \$3.00 per day, since Feb. 12, 1960, to cessation of this discrimination.

I, Jack L. Wood, have been registered on the books, at Chico, since Dec. 23, 1959.

4. Precisely when did you become aware of the facts set forth in your answer to Question 3?

(Testimony of Robert D. Jewell.)

March 18, 1960, 11:00 a.m.

/s/ JACK L. WOOD

Full Signature of Complainant.

Date: March 18, 1960.

Address: 103 Worthy Ave.

City: Oroville, Calif.

Received in evidence July 6, 1960.

—  
\* \* \*

Redirect Examination

By Mr. Grodin:

Q. Mr. Jewell, who kept the minutes of the board proceeding?      A. Mr. Romitti.

Q. The minutes reflect that the complaint of Mr. Wood was read at that time. Do you recall it being read?      A. Yes, sir. I believe it was. [273]

\* \* \*

Q. In other words, did Mr. Romitti know whether Mr. Schulz would accept any other man that possessed these skills that Mr. Wood set forth in this complaint?      A. That's right.

Q. And Mr. Hamilton replied, "He did not want any other man but Wood."

Now, there is an ambiguous or at least ambiguous to me portion of the minutes on the second page and I intend to ask Mr. Romitti whether he has any recollection, but would you see whether this sparks any recollection in your mind?

(Testimony of Robert D. Jewell.)

Mr. Hamilton is stating that Mr. Schulz did not want any other man. "Schulz said to send Wood so he would be off my back," and then he goes on to say, "not only work which he has to do shall be lead burning, but also conduit work and et cetera through construction, which I know he has no experience." That is not a very meaningful sentence. I wonder whether that recalls to your mind what was said on that subject?

A. No, I couldn't recall by reading this although it seems Schulz is asking for a man with special skills at the same time he is going to have him do construction work. In other words, [274] I would assume he didn't have enough work for a lead burner or a battery repair man of special skills to keep him going all the time. He intended to use him at the same time for construction work.

Q. And that was the union's objection to sending Wood out to the job? Is that your understanding?

A. Well, that would be my understanding, as he had group 1 men or group 2 men which should come before group 4 men which could do that type of work. [275]

\* \* \*

#### Further Redirect Examination

By Mr. Grodin:

\* \* \*

Q. At that second hearing, did any member of the Appeals Board tell Mr. Wood anything about the procedure to be followed in an appeal?

(Testimony of Robert D. Jewell.)

A. Yes, sir.

Q. What was he told and who told him?

Trial Examiner: Pardon me. Are we talking about the second hearing?

Mr. Grodin: I am talking about the second hearing.

Mr. Bowe: There were two hearings on the first complaint about group placement. The second hearing was on the group placement issue. [276]

The Witness: We had our first meeting and, as I say—we reviewed his first hearing, rather, I should say, and we notified him of our findings.

At the same time we notified him of the findings, we told him that if he wished to appear personally before the board to do so at his own discretion. He did do that. As I say, we recessed to give him further time to submit his proof, and he came in and said that he had no further proof.

At the second meeting, we held—investigation, we went to Yuba City, and he did not request to meet us, personally, to have a personal appearance before the board.

Q. (By Mr. Grodin): Although he had made that request the first time?

A. He had made that the first time, but he did not—after we sent him the findings of our board, he did not request to see us again which was probably two weeks after the first time he had been in.

Q. With respect to the first complaint that he filed on his group classification, he did make a request to appear personally before the board?

(Testimony of Robert D. Jewell.)

A. Yes, he did.

Q. But he made no request with respect to the second complaint?      A. No, sir. [277]

\* \* \*

Mr. Bowe: May I offer into evidence at this time a letter as General Counsel's No. 9 in which he was offered the opportunity to appear in person on his first complaint of which [279] letter is dated February 22nd, 1960, and addressed to Mr. Wood.

Trial Examiner: Is there any objection to the receipt of the letter into evidence?

Mr. Grodin: I have no objection.

Trial Examiner: The document is received into evidence.

Next witness.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 9 for identification and received in evidence.)

\* \* \*

#### WILLIAM J. CAMPBELL

was recalled as a witness by and on behalf of the Union and, having been previously duly sworn, was examined and testified further as follows:

Trial Examiner: You are under oath for the third time that you are recalled, Mr. Campbell.

#### Direct Examination

By Mr. Grodin:

Q. Mr. Campbell, have there been any Local 800 men who have worked pursuant to referral for Local 340?      A. Yes.



(Testimony of William J. Campbell.)

Q. Could you name some of them for us? [280]

A. We have a man by the name of Hansen, and, of course, Mr. Wood, I believe, has worked since the referral system went into effect.

Q. He worked before pursuant to referral from Local 340? A. Yes.

Q. And anyone else that you can think of offhand? A. That now belong to 800?

Q. No, that were members of Local 800 at the time they were referred from the local hiring hall?

A. Yes. We have, I imagine, 8 or 10 people in Local 340 now who originated from 800.

Q. And who were referred from the hiring hall while they were members of Local 800?

A. Yes. They were referred but that goes back—some of those referrals predates the Article 9 of our contract.

Q. I see. Now, in the conversation with me during the recess, you told me something of which I was not previously aware, and I will now ask you about it. Was there anything in your prior history with Mr. Schulz which made you suspicious about the bona fide nature of his requests for Mr. Wood?

A. Well, yes, there is. Although Mr. Schulz definitely knows his job, he definitely puts pressure on us to get the men he wants specifically. It would be hard to—I would have to search the records back, but I remember several years back when I was an assistant representative that things of [281]

(Testimony of William J. Campbell.)

this nature come up that there was a little controversy on.

Q. Did Mr. Schulz's treatment of his son have any bearing upon your decision in this matter?

A. Well, that had a good deal—that has to be a bearing on it. He put his son to work under certain agreed-on conditions and he didn't live up to those conditions at all even after, perhaps, a second warning or third warning.

\* \* \*

Do I understand your attitude to be here, Mr. Campbell, that you have no particular animosity toward Mr. Wood, but you are suspicious of Mr. Schulz?

The Witness: Yes, I am. I don't think—although we have an agreement with this company, it is the type of a company that we seldom have agreements with.

\* \* \*

Q. (By Mr. Grodin): And does Mr. Wood's non-membership in [282] Local 340 have anything whatsoever to do with your decision not to refer him to Mr. Schulz?

A. No. It certainly does not.

\* \* \*

Received July 20, 1960. [283]

United States Court of Appeals  
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO,

Respondent.

CERTIFICATE OF THE NATIONAL LABOR  
RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.116, Rules and Regulations of the National Labor Relations Board—Series 8, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of proceeding had before said Board and known upon its records as Case No. 20-CB-760. Such transcript includes the pleadings and testimony and evidence upon which the order of the Board in said proceeding was entered, and includes also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Stenographic transcript of testimony taken before Trial Examiner David F. Doyle on June

21, and July 6, 1960, together with all exhibits introduced in evidence.

2. Copy of Trial Examiner's Intermediate Report and Recommended Order dated October 25, 1960.

3. Respondent's exceptions to the Intermediate Report received November 28, 1960.

4. Copy of Decision and Order issued by the National Labor Relations Board on April 26, 1961.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this . . . . day of . . . .

[Seal]      /s/ OGDEN W. FIELDS,  
Executive Secretary, National  
Labor Relations Board.

United States Court of Appeals  
for the Ninth Circuit

No. 17425

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL UNION  
340, AFL-CIO,

Respondent.

PETITION FOR ENFORCEMENT OF AN  
ORDER OF THE NATIONAL LABOR RE-  
LATIONS BOARD

To the Honorable, the Judges of the United States  
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U.S.C., Secs. 151, et seq., as amended by 73 Stat. 519), hereinafter called the Act, respectfully petitions this Court for the enforcement of its Order against Respondent, its officers, and agents. Case No. 20-CB-760.

In support of this petition the Board respectfully shows:

(1) Respondent is a labor organization engaged in promoting and protecting the interests of its members in the State of California, within this

judicial circuit where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10(e) of the National Labor Relations Act, as amended.

(2) Upon due proceedings had before the Board in said matter, the Board on April 26, 1961, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent, its officers and agents. On the same date, the Board's Decision and Order was served upon Respondent by sending a copy thereof postpaid bearing Government frank, by registered mail, to Counsel for Respondent.

(3) Pursuant to Section 10(e) of the National Labor Relations Act, as amended, the Board is certifying and filing with this Court a transcript of the entire record of the proceeding before the Board upon which the said Order was entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the Order of the Board sought to be enforced.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon Respondent and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony, and evidence, and the proceedings set forth in the transcript and upon the Order made thereupon a decree enforcing in whole said Order of the Board,

and requiring Respondent, its officers and agents, to comply therewith.

Dated at Washington, D. C., this 22nd day of June, 1961.

/s/ MARCEL MALLET-PREVOST,  
Assistant General Counsel, National Labor Relations Board.

[Endorsed]; Filed June 23, 1961.

---

[Title of Court of Appeals and Cause.]

RESPONDENT'S ANSWER TO THE  
PETITION FOR ENFORCEMENT

To the Honorable, the Judges of the United States  
Court of Appeals for the Ninth Circuit:

International Brotherhood of Electrical Workers,  
Local Union 340, AFL-CIO, respondent in the  
above-entitled case, answers the petition for en-  
forcement of the National Labor Relations Board  
as follows:

1. The allegations contained in paragraphs 1 and 2 of the petition are admitted.
2. Respondent has no knowledge respecting the transmission and certification of the record before the Board in this case, as alleged in paragraph 3 of the petition.
3. The Board's decision in this case is not supported by substantial evidence considered on the

record as a whole, and is contrary to law. The Board's order is not supported by the record or by the decision, and is contrary to law.

Wherefore, respondent respectfully requests that the Court, upon consideration of the record, the briefs, oral argument, and all other proceedings herein, enter its decree denying enforcement of the Board's order, and dismissing the petition for enforcement in its entirety.

Dated: June 29, 1961.

NEYHART & GRODIN,

By /s/ JOSEPH R. GRODIN.

[Endorsed]: Filed June 30, 1961.

---

[Endorsed]: No. 17425. United States Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. International Brotherhood of Electrical Workers, Local Union 340, AFL-CIO, Respondent. Transcript of Record. Petition for Enforcement of an Order of the National Labor Relations Board.

Filed: August 1, 1961.

/s/ FRANK H. SCHMID,

Clerk of the United States Court of Appeals for the Ninth Circuit.